

# Exhibit 1

1 IKIMULISA LIVINGSTON

2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X  
5 AUSTIN FENNER and IKIMULISA LIVINGSTON,

6 Plaintiffs,

7 -against-

8 09 Civ. 9832  
9 (BSJ) (RLE)

10 NEWS CORPORATION, NYP HOLDINGS, INC., d/b/a  
11 THE NEW YORK POST and DAN GREENFIELD and  
12 MICHELLE GOTTHELF,

13 Defendants.

14 -----X

15 VIDEOTAPED DEPOSITION OF IKIMULISA LIVINGSTON

16 New York, New York

17 Friday, January 13, 2012

18 REPORTED BY: BARBARA R. ZELTMAN  
19 (BOBBIE)

20 Professional Stenographic Reporter

21 Job Number: 45412

Page 2

1 IKIMULISA LIVINGSTON

2  
3  
4 January 13, 2012  
5 9:41 a.m.

6 Videotaped deposition of IKIMULISA  
7 LIVINGSTON taken by Defendants, pursuant to Notice,  
8 at the offices of KASOWITZ, BENSON, TORRES &  
9 FRIEDMAN, LLP, 1633 Broadway, New York, New York,  
10 before BARBARA R. ZELTMAN, a Professional  
11 Stenographic Reporter and Notary Public within and  
12 for the State of New York.  
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Page 3

1 IKIMULISA LIVINGSTON

2 A P P E A R A N C E S:

3  
4 THOMPSON WIGDOR, LLP  
5 Attorneys for the Plaintiffs  
6 85 Fifth Avenue  
7 New York, New York 10003  
8 BY: KENNETH P. THOMPSON, ESQ.,  
9 SHAFFIN A. DATOO, ESQ., and  
10 PAUL A. CLARK, ESQ.

11 KASOWITZ, BENSON, TORRES & FRIEDMAN, LLP  
12 Attorneys for the Defendants  
13 1633 Broadway  
14 New York, New York 10019  
15 BY: BLYTHE E. LOVINGER, ESQ.  
16 MARK W. LERNER, ESQ.  
17 GARRETT D. KENNEDY, ESQ.

18  
19 ALSO PRESENT: Michelle Gotthelf  
20 Jordan Lippner  
21 News America Incorporated

22 Steve Sanpietro, Videographer  
23  
24  
25

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1 IKIMULISA LIVINGSTON

2  
3 IT IS HEREBY STIPULATED AND AGREED  
4 by and between the attorneys for the respective  
5 parties herein that filing and sealing be and  
6 the same are hereby waived.

7 IT IS FURTHER STIPULATED AND AGREED  
8 that all objections, except as to the form of  
9 the question, shall be reserved to the time  
10 of trial.

11 IT IS FURTHER STIPULATED AND AGREED  
12 that the within deposition may be signed and  
13 sworn to before any officer authorized to  
14 administer an oath with the same force and  
15 effect as if signed and sworn to before  
16 the Court.  
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1 IKIMULISA LIVINGSTON

2 THE VIDEOGRAPHER: This is the  
3 start of the tape labeled Number 1 of  
4 the videotaped deposition of  
5 Ikimulisa Livingston in the matter of  
6 Austin Fenner and Ikimulisa  
7 Livingston versus News Corporation,  
8 NYP Holdings, Inc.

9 This deposition is being held on  
10 Friday, January 13, 2012, at  
11 approximately 9:41 a.m., at 1633  
12 Broadway, New York, New York.  
13 My name is Steve Sanpietro from TSG  
14 Reporting, Inc. I'm the legal video  
15 specialist.

16 The court reporter today is Bobbie  
17 Zeltman in association with TSG  
18 Reporting.

19 Please have counsel introduce  
20 themselves for the record, starting to my  
21 right.

22 MS. LOVINGER: Blythe Lovinger  
23 from Kasowitz, Benson, Torres &  
24 Friedman, LLP, counsel for  
25 defendants.

2 (Pages 2 to 5)

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1 IKIMULISA LIVINGSTON  
 2 MR. KENNEDY: Gary Kennedy from  
 3 Kasowitz, Benson, Torres & Friedman  
 4 for defendants.  
 5 MR. LIPPNER: Jordan Lippner,  
 6 in-house counsel.  
 7 MR. LERNER: Mark Lerner, Kasowitz  
 8 Benson, for the defendants.  
 9 MR. THOMPSON: Kenneth Thompson  
 10 and Shaffin Dato for the plaintiff,  
 11 along with our colleague Paul Clark  
 12 from our law firm.  
 13 IKIMULISA LIVINGSTON,  
 14 having been first duly sworn by  
 15 Barbara R. Zeltman, Notary Public, was  
 16 examined and testified as follows:  
 17 EXAMINATION BY MS. LOVINGER:  
 18 Q Good morning, Ms. Livingston.  
 19 A Good morning.  
 20 Q My name is Blythe Lovinger. We met  
 21 a few moments ago and I am going to be  
 22 asking you questions today.  
 23 Just a few basic rules for the  
 24 deposition.  
 25 If you do not understand a question

Page 8

1 IKIMULISA LIVINGSTON  
 2 A Yes.  
 3 Q Is your mind clear today?  
 4 A Yes.  
 5 Q Are you thinking clearly this  
 6 morning?  
 7 A Yes.  
 8 Q Have you taken any medications or  
 9 ingested anything that would impair your  
 10 ability to think clearly or testify  
 11 truthfully?  
 12 A No, I have not.  
 13 Q What is your full name?  
 14 A Ikimulisa Livingston.  
 15 Q Do you go by any other names?  
 16 A No.  
 17 Q Is there a short nickname for  
 18 Ikimulisa?  
 19 A Kim.  
 20 Q Where do you presently reside?  
 21 A 6395 Austin Street, Rego Park, New  
 22 York.  
 23 Q How long have you lived at that  
 24 address?  
 25 MR. THOMPSON: Objection.

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1 IKIMULISA LIVINGSTON  
 2 I ask, please tell me and it will be  
 3 rephrased.  
 4 If you do not hear the question,  
 5 please tell me and it will be repeated.  
 6 If you answer, we will assume that  
 7 you understood and heard the question.  
 8 Please don't start answering until  
 9 I finish the question and I'll try not to  
 10 ask a question until you've finished your  
 11 answer.  
 12 I'd ask that we do not take a break  
 13 while a question is pending.  
 14 And finally, you must speak your  
 15 answers so that the court reporter can  
 16 transcribe them. Don't just nod your head  
 17 yes or no. We need a verbal response.  
 18 Do you understand those rules?  
 19 A Yes, I do.  
 20 Q Do you understand that you took an  
 21 oath to testify truthfully today?  
 22 A Yes.  
 23 Q Do you understand that that's the  
 24 same oath you would take in a courtroom in  
 25 the State of New York?

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1 IKIMULISA LIVINGSTON  
 2 You can answer the question.  
 3 A About ten years.  
 4 Q What is your date of birth?  
 5 A May 15, 1965.  
 6 Q Are you currently married?  
 7 A Yes, I am.  
 8 Q And how long have you been married?  
 9 MR. THOMPSON: Objection.  
 10 A I've been married for over eight  
 11 years.  
 12 Q Do you have children?  
 13 A Yes, I do.  
 14 Q How many children do you have?  
 15 A I have two.  
 16 Q And were you previously married  
 17 prior to your current marriage?  
 18 MR. THOMPSON: Objection.  
 19 A No.  
 20 Q What is the highest education that  
 21 you have?  
 22 A I have a bachelor's in journalism.  
 23 Q Where did you obtain your  
 24 bachelor's of journalism?  
 25 A San Francisco State University.

3 (Pages 6 to 9)

Page 22

1 IKIMULISA LIVINGSTON  
 2 Q And when you read it  
 3 electronically, on what type of device do  
 4 you read it?  
 5 A I'll read it on my computer or I  
 6 read it on my cellphone.  
 7 Q How many computers do you have?  
 8 A Three.  
 9 Q And are they laptop computers?  
 10 A No. All three are not laptop  
 11 computers.  
 12 Q How many of the three are laptop  
 13 computers?  
 14 A One.  
 15 Q And what kind of computer is that?  
 16 A What kind of computer? You mean  
 17 the manufacturer?  
 18 Q Yes.  
 19 A Dell.  
 20 Q And how long have you had that  
 21 laptop computer?  
 22 A About four years.  
 23 Q About four years.  
 24 So did you get it sometime in 2007  
 25 or 2008, do you know?

Page 24

1 IKIMULISA LIVINGSTON  
 2 A The other two? No.  
 3 Q What other newspapers do you read  
 4 on any given day?  
 5 A The Daily News, New York Times,  
 6 sometimes The Wall Street Journal.  
 7 Q The Post publishes different types  
 8 of stories than the Daily News; is that  
 9 correct?  
 10 A I'm sorry. I wasn't finished with  
 11 my answer.  
 12 Q Oh, okay. You paused. I'm sorry.  
 13 A Sometimes I read the Queens papers,  
 14 the local Queens papers. And that may be  
 15 about it for the most part.  
 16 Q Would you say the Post publishes  
 17 different types of stories than the Daily  
 18 News?  
 19 A I wouldn't say that.  
 20 Q What types of stories does the Post  
 21 run?  
 22 MR. THOMPSON: Objection.  
 23 Q Would you agree that the Post runs,  
 24 in addition to national stories, gossip  
 25 stories?

Page 23

1 IKIMULISA LIVINGSTON  
 2 A I don't remember the exact year.  
 3 It's been about four years, though.  
 4 Q What are the other two computers  
 5 you currently own?  
 6 A You mean the manufacturer?  
 7 Q Are they desktop computers?  
 8 A Yes, they are.  
 9 Q Are they in your home?  
 10 A Yes, they are.  
 11 Q Do you share them with anyone else?  
 12 A One was a computer for my son.  
 13 Q But you use that computer as well?  
 14 A No.  
 15 Q How many computers do you use?  
 16 A One.  
 17 Q And is that the laptop computer?  
 18 A That's correct.  
 19 Q And when you searched for  
 20 responsive documents in this litigation, did  
 21 you search the hard drive of that laptop  
 22 computer?  
 23 A Yes, I did.  
 24 Q Did you search the hard drive of  
 25 the other two computers in your home?

Page 25

1 IKIMULISA LIVINGSTON  
 2 A Does the Post run gossip stores?  
 3 Q Correct.  
 4 A Yes.  
 5 Q Would you say the Post is a  
 6 tabloid?  
 7 A The format of the paper is a  
 8 tabloid, yes.  
 9 Q The Daily News is more local news;  
 10 is that correct?  
 11 A I don't think that's necessarily  
 12 true.  
 13 Q Do the Post and the Daily News  
 14 always run the same stories?  
 15 A No, they do not always run the same  
 16 stories.  
 17 Q So they sometimes run different  
 18 stories; is that what you are saying?  
 19 A They sometimes run different  
 20 stories. They also sometimes run the same  
 21 story -- stories.  
 22 Q If the Daily News ran a story,  
 23 would the Post want to run the same story  
 24 the following day?  
 25 MR. THOMPSON: Objection.

7 (Pages 22 to 25)

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Page 27

1 IKIMULISA LIVINGSTON

2 A That's not really my call.

3 Q Well, since you generally read both  
4 newspapers, have you seen many instances  
5 where the Daily News run a story one day and  
6 the Post run the same story the following  
7 day?

8 A The following day?

9 Q Yes.

10 A I don't recall any instances right  
11 now where that has occurred. I don't  
12 remember.

13 Q Okay.

14 Are you supposed to read other  
15 newspapers to make sure that you don't pitch  
16 ideas that other papers have run?

17 A I'm sorry. Could you repeat that.

18 Q Are you supposed to, in the course  
19 of your employment at New York Post, read  
20 other newspapers to make sure that you don't  
21 pitch story ideas that other newspapers have  
22 run?

23 A I believe I'm supposed to read  
24 other newspapers, other news sources. But  
25 sometimes other news sources can -- they may

Page 28

1 IKIMULISA LIVINGSTON

2 Q And you alleged that you are  
3 discriminated against on the basis of your  
4 race; is that right?

5 A That is correct.

6 MR. THOMPSON: Objection.

7 Q There are two individual defendants  
8 in this lawsuit, Michelle Gottself and  
9 Daniel Greenfield; is that right?

10 A Yes.

11 Q What is the basis of your belief  
12 that Ms. Gottself discriminated against you  
13 based on your race?

14 A Michelle demoted me from my  
15 position from Queens County Courthouse. And  
16 at the time she demoted me, she promised me  
17 I would get a desk and a telephone and that  
18 I would not always be in the field, that I  
19 would sometimes be in the office and that I  
20 would have opportunities.

21 And I have been denied that desk,  
22 that telephone, the other resources that my  
23 white colleagues in the office have, access  
24 to the archives, to library staff, to  
25 interaction with my colleagues to bounce

1 IKIMULISA LIVINGSTON

2 run stories that may spark an idea for a  
3 different kind of story.

4 So -- I'm sorry. Can you repeat it  
5 again?

6 Q You know what. Let's take a break  
7 for a minute.

8 Let's go off the record.

9 THE VIDEOGRAPHER: The time is  
10 10:08 a.m. We're now off the record.

11 (A brief recess was  
12 taken.)

13 THE VIDEOGRAPHER: The time is  
14 now 10:13 a.m. We're now back on the  
15 record.

16 BY MS. LOVINGER:

17 Q Ms. Livingston, you are being  
18 deposed today in connection with a lawsuit  
19 you filed in federal court in New York,  
20 correct?

21 A That's correct.

22 Q And in that lawsuit, you allege  
23 that you were discriminated against by the  
24 defendants, correct?

25 A That's correct.

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1 IKIMULISA LIVINGSTON

2 ideas back and forth off of them.

3 I'm paid less than my white  
4 counterparts.

5 And on several occasions I've had  
6 my byline not included on stories that I  
7 worked on.

8 On one occasion, I actually had a  
9 story that I had produced and submitted  
10 several times that did not make the paper  
11 under my byline, but did run under a white  
12 woman's byline.

13 I've been given assignments that  
14 basically have zero chance of making the  
15 paper or near zero chance of making the  
16 paper; whereas my white colleagues are  
17 actually given stories, assigned to work on  
18 stories that have a higher probability of  
19 making the paper.

20 The reviews I've received from  
21 Michelle have been untrue and were  
22 discriminatory.

23 And there are other things  
24 including the fact that the Post published  
25 the cartoon of a chimpanzees depicting

8 (Pages 26 to 29)



Page 30

1 IKIMULISA LIVINGSTON  
 2 President Obama being shot by cops, and it's  
 3 extremely racially offensive to me as an  
 4 employee and it's as if -- it is -- it's my  
 5 employees [sic], including Michelle,  
 6 published this cartoon that essentially  
 7 called black people, myself included and  
 8 other employees, other black employees at  
 9 the Post, as monkeys. And there's been a  
 10 long history where black people have been  
 11 depicted as monkeys and chimpanzees and apes  
 12 and it was extremely demeaning, demoralizing  
 13 and offensive.

14 And those are the things that --  
 15 those are some of the things that I can  
 16 relate right now in terms of how she  
 17 discriminated against me.

18 Q Is there anything else you can  
 19 think of right now?

20 Any other examples of how Michelle  
 21 Gotthelf discriminated against you on the  
 22 basis of your race.

23 A The fact that when I submitted  
 24 story ideas about black people and Latino  
 25 people and she would call them "low rent" as

Page 32

1 IKIMULISA LIVINGSTON  
 2 now.

3 If there are other things that come  
 4 to mind, I will mention it, but right now  
 5 that's all that comes to my mind.

6 Q All the reasons you just ran  
 7 through why you believed Ms. Gotthelf  
 8 discriminated against you on the basis of  
 9 your race, are those the same reasons you  
 10 believe that Dan Greenfield discriminated  
 11 against you based on your race?

12 A No, there are additional.

13 Q Okay.

14 In this lawsuit you also allege  
 15 that Mr. Greenfield discriminated against  
 16 you on the basis of your race.

17 So why don't you tell me what  
 18 additional reasons you have for believing  
 19 that Mr. Greenfield in fact discriminated  
 20 against you?

21 A Dan also played a role in my  
 22 demotion from my beat at the Queens  
 23 Courthouse.

24 Q Didn't you mention that as a reason  
 25 why you believe Michelle Gotthelf

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1 IKIMULISA LIVINGSTON  
 2 if they were just ghetto stories and ghetto  
 3 people, that's offensive.

4 And those are the things that come  
 5 to mind right now.

6 Q Okay.

7 Is there anything else? Because  
 8 we're sitting here now for your deposition  
 9 and now is the time for you to tell us any  
 10 other reason why you think Michelle Gotthelf  
 11 discriminated against you on the basis of  
 12 your race at the New York Post.

13 A There was a real pattern of  
 14 discrimination.

15 The reviews that she gave me, the  
 16 reviews my black colleagues, my other black  
 17 reporters received. The way she treated  
 18 Austin Fenner and Leonard Greene.

19 The fact that Leonard is the only  
 20 African-American reporter in the newsroom.

21 All those things, it's all part of  
 22 the environment of racism, of  
 23 discrimination.

24 Q Is there anything else?

25 A That's what comes to mind right

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1 IKIMULISA LIVINGSTON  
 2 discriminated against you based on your  
 3 race?

4 A That is correct.

5 Q So are there any different reasons  
 6 or additional reasons other than the ones  
 7 you mentioned in connection with Michelle  
 8 Gotthelf why you believe Mr. Greenfield  
 9 discriminated against you based on your race  
 10 at the New York Post?

11 A Mr. Greenfield also gave me  
 12 assignments that were -- had barely any  
 13 chance of making the paper.

14 Q Do you have an example of such an  
 15 assignment?

16 A Yes. It was -- I'm not really sure  
 17 the time frame.

18 This was more than a year ago.  
 19 Greenfield sent me out to an address in  
 20 Brooklyn where a woman had been murdered.  
 21 And in the course of reporting that murder  
 22 and interviewing people, I called the Police  
 23 Shack to find out -- to ask them some  
 24 questions or to relay some information. And  
 25 at that time no one in the Police Shack had

9 (Pages 30 to 33)

<p style="text-align: right;">Page 34</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 actually been told to look into that</p> <p>3 homicide, and that story did not make the</p> <p>4 paper.</p> <p>5 Q Doesn't it happen sometimes where</p> <p>6 the newsroom hears of something that the</p> <p>7 Police Shack hasn't yet heard of?</p> <p>8 A When I had called the shack, it was</p> <p>9 not the morning time, it was in the</p> <p>10 afternoon. And at that time in the normal</p> <p>11 course of a day reporting, someone would</p> <p>12 have been told earlier to look into that</p> <p>13 story, usually.</p> <p>14 Q Usually, but aren't there times</p> <p>15 when the newsroom hears of something through</p> <p>16 a different source and the Police Shack</p> <p>17 isn't yet aware of it?</p> <p>18 A Not in this instance.</p> <p>19 Q In any instance?</p> <p>20 A I don't recall any other instances.</p> <p>21 I just know that in this instant, it was a</p> <p>22 police story. It was a homicide. Yet --</p> <p>23 and I'm not saying that the Police Shack</p> <p>24 didn't know about it. I'm saying no one at</p> <p>25 the office, none of the editors directed</p>	<p style="text-align: right;">Page 35</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 anyone at the Police Shack to work on the</p> <p>3 story to get information to produce a story</p> <p>4 for the next day's paper or for the Web.</p> <p>5 Q Okay.</p> <p>6 But my question was: Aren't there</p> <p>7 sometimes incidences where a reporter may be</p> <p>8 looking into something that someone at the</p> <p>9 Police Shack isn't yet assigned to look</p> <p>10 into.</p> <p>11 Does that ever happen?</p> <p>12 A I'm not familiar with that</p> <p>13 happening -- I'm not familiar with that</p> <p>14 happening as a usual course of business.</p> <p>15 Usually someone is assigned in the</p> <p>16 Shack to look into a story that we're</p> <p>17 working on, especially if I've been working</p> <p>18 on that story for most of the day.</p> <p>19 And in this instance, no one in the</p> <p>20 Shack was working the story. And despite</p> <p>21 the fact I did compile information and</p> <p>22 reported the story out, the story did not</p> <p>23 make the newspaper.</p> <p>24 Q Do you supervise employees in the</p> <p>25 Police Shack?</p>
<p style="text-align: right;">Page 36</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 A No.</p> <p>3 Q Are you aware of what employees in</p> <p>4 the Police Shack are doing on any given day?</p> <p>5 A No.</p> <p>6 Q Is there only one reason why a</p> <p>7 story a reporter works on may not make it</p> <p>8 into the newspaper?</p> <p>9 A I don't think I -- I don't</p> <p>10 understand that question.</p> <p>11 Q Is it true there are a number of</p> <p>12 reasons why a story may not make it into the</p> <p>13 newspaper?</p> <p>14 A Oh, sure.</p> <p>15 Q And who makes the decision as to</p> <p>16 which stories make it into the paper?</p> <p>17 A The editors.</p> <p>18 Q And by the way, you mentioned that</p> <p>19 this happened more than one year ago. So</p> <p>20 today is January 2012. Would you say this</p> <p>21 happened in 2011?</p> <p>22 A No, I don't think it did happen in</p> <p>23 2011.</p> <p>24 Q So did it happen in the latter part</p> <p>25 of 2010?</p>	<p style="text-align: right;">Page 37</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 A I don't recall.</p> <p>3 Q If it happened about a year ago, is</p> <p>4 it safe to say it happened in 2010 or 2011?</p> <p>5 A I didn't say it happened a year</p> <p>6 ago. I said it happened more than a year</p> <p>7 ago.</p> <p>8 Q Did it happen more than two years</p> <p>9 ago?</p> <p>10 A I don't recall.</p> <p>11 Q So you don't recall all the details</p> <p>12 surrounding this story?</p> <p>13 A I don't recall the day or exactly</p> <p>14 the year, but I recall some of the details</p> <p>15 of the story.</p> <p>16 Q Some of the details.</p> <p>17 Do you recall who was working the</p> <p>18 Police Shack that day?</p> <p>19 A No, I don't know. I don't remember</p> <p>20 who was working the Police Shack that day.</p> <p>21 Q Did you speak to all of the Post</p> <p>22 employees who were working in the Police</p> <p>23 Shack that day?</p> <p>24 A I did not speak to every employee</p> <p>25 who was working in the Police Shack that</p>

10 (Pages 34 to 37)



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Page 39

1 IKIMULISA LIVINGSTON  
 2 day.  
 3 Q Then how is it that you are  
 4 testifying under oath what the employees who  
 5 were working in the Police Shack on that day  
 6 were instructed to do?  
 7 A Because the person I spoke to in  
 8 the Police Shack told me that no one had  
 9 assigned anyone to work on that story in the  
 10 Police Shack.  
 11 Q And who did you speak with in the  
 12 Police Shack?  
 13 MR. THOMPSON: Objection.  
 14 A I don't recall who I spoke to at  
 15 that time.  
 16 Q Do you recall when the time was  
 17 that you spoke to the person?  
 18 MR. THOMPSON: Objection.  
 19 A Do you mean the time of day?  
 20 Q I mean was it contemporaneously,  
 21 was it the day this was happening?  
 22 A It was the day I was assigned to  
 23 the story, yes.  
 24 Q But you don't recall who it was?  
 25 A No, I don't.

Page 40

1 IKIMULISA LIVINGSTON  
 2 or over the telephone?  
 3 A They're over the telephone, for the  
 4 most part.  
 5 Q When did Mr. Greenfield start  
 6 speaking to you in this manner which you  
 7 think is discriminatory?  
 8 A He's always pretty much spoken to  
 9 me that way.  
 10 Q How many years have you worked with  
 11 Mr. Greenfield?  
 12 A I worked with him for I believe as  
 13 long as he's been an employee at the Post.  
 14 Q Do you know how many years that is?  
 15 A I don't know how long he's been an  
 16 employee of the Post.  
 17 Q Have you ever complained to anyone  
 18 at the Post about the way Mr. Greenfield  
 19 speaks to you?  
 20 A I complained of racial -- excuse  
 21 me.  
 22 I've complained about racial  
 23 discrimination.  
 24 Q Who did you complain to about  
 25 racial discrimination at the Post?

1 IKIMULISA LIVINGSTON  
 2 Q Okay.  
 3 So you were telling me that -- we  
 4 just got sidetracked a bit -- that Dan  
 5 Greenfield gave you assignments to stories  
 6 that were not going to appear in the paper.  
 7 Is there anything else that you  
 8 believe demonstrates how Dan Greenfield  
 9 discriminated against you on the basis of  
 10 race that you didn't already describe in  
 11 connection with how you think Ms. Gottself  
 12 discriminated against you?  
 13 A Dan Greenfield spoke to me in a  
 14 very demeaning, disrespectful, demoralizing  
 15 way.  
 16 He speaks to me in a very  
 17 dismissive way, in a callus way.  
 18 He talks to me like I don't matter  
 19 and my distributions don't matter. And he's  
 20 intimidating and is a bully.  
 21 Q How often do you speak to  
 22 Mr. Greenfield?  
 23 A Almost daily. Almost daily when  
 24 I'm working.  
 25 Q Are these conversations in person

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1 IKIMULISA LIVINGSTON  
 2 A I complained to Michelle. I've  
 3 complained to the HR Department, and I've  
 4 complained in my evaluations.  
 5 Q I'm sorry?  
 6 A In my evaluations.  
 7 Q In your evaluation.  
 8 And these are the times that you  
 9 complained about how Mr. Greenfield speaks  
 10 to you?  
 11 A Those are the times that I have  
 12 complained about racial discrimination  
 13 against me.  
 14 Q But my question was: Have you ever  
 15 complained to anyone at the Post about the  
 16 way Mr. Greenfield speaks to you?  
 17 A Have I specifically?  
 18 Q Correct.  
 19 Have you specifically complained to  
 20 anyone at the Post about how Mr. Greenfield  
 21 speaks to you? That was the question.  
 22 A I have not specifically stated to  
 23 anyone at the Post about how he spoke to me.  
 24 Q Are you aware of the complaint  
 25 procedure at the New York Post?

11 (Pages 38 to 41)

Page 42

Page 43

1 IKIMULISA LIVINGSTON  
 2 A Yes, I am.  
 3 Q When did you first become aware of  
 4 the New York Post Human Resources  
 5 Department?  
 6 A I don't recall.  
 7 Q Well, did you become aware of the  
 8 New York Post Human Resources Department in  
 9 the last five years?  
 10 A I don't recall.  
 11 Q Well, do you know who currently is  
 12 the head of the New York Post HR Department?  
 13 A No. I'm not one hundred percent  
 14 sure on that.  
 15 Q Well, you mentioned a short while  
 16 ago that you complained about race  
 17 discrimination to HR.  
 18 Can you tell me when you first  
 19 complained to the HR Department at the Post  
 20 about race discrimination?  
 21 A That would have been in December of  
 22 2009.  
 23 Q And was December 2009 the first  
 24 time you complained to the HR Department  
 25 about race discrimination at the Post?

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1 IKIMULISA LIVINGSTON  
 2 ago.  
 3 A I complained to her about the  
 4 cartoon. And I complained to her about the  
 5 cartoon the day the cartoon ran in the  
 6 newspaper.  
 7 Q Was that an in-person conversation?  
 8 A No, it was not.  
 9 Q How did you communicate with  
 10 Ms. Gotthelf about the cartoon?  
 11 A I called and I got her voice-mail  
 12 and I left a message.  
 13 And some time passed, she called me  
 14 back and we spoke.  
 15 Q And Ms. Gotthelf apologized to you  
 16 about the cartoon; is that correct?  
 17 A I don't recall if she apologized to  
 18 me. I don't recall her apologizing.  
 19 Q What do you recall about the  
 20 conversation?  
 21 A I recall telling her that that  
 22 cartoon was very, very offensive to myself  
 23 and to the people of color, and she told me  
 24 that she agreed.  
 25 Q So Ms. Gotthelf told you that she

1 IKIMULISA LIVINGSTON  
 2 A To the Human Resources Department,  
 3 yes.  
 4 Q And so it's true that in  
 5 December 2009 when you complained about race  
 6 discrimination, you didn't mention that you  
 7 thought the way Mr. Greenfield spoke to you  
 8 was discrimination or discriminatory; is  
 9 that correct?  
 10 A At that time, no.  
 11 Q Since December 2009, have you  
 12 spoken to anyone at the New York Post about  
 13 how you believe the way Mr. Greenfield  
 14 speaks to you is discriminatory?  
 15 A Have I've spoken to someone at the  
 16 New York Post about --  
 17 Q Human Resources Department.  
 18 A -- Human Resources Department about  
 19 the way Mr. Greenfield speaks to me?  
 20 Q Yes.  
 21 A Is that your question.  
 22 No.  
 23 Q When did you complain to Michelle  
 24 Gotthelf about race discrimination?  
 25 You mentioned that a few minutes

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1 IKIMULISA LIVINGSTON  
 2 agreed that the cartoon was offensive; is  
 3 that correct?  
 4 MR. THOMPSON: Objection.  
 5 A It was my impression from what she  
 6 said to me that she agreed.  
 7 I believe she said, "I know."  
 8 Q And Ms. Gotthelf told you that she  
 9 thought the cartoon was disgusting; isn't  
 10 that right?  
 11 A I don't recall if she said  
 12 "disgusting."  
 13 Q Ms. Gotthelf told you that she was  
 14 sorry that you had to go through this; isn't  
 15 that right?  
 16 A I don't recall her saying that at  
 17 all.  
 18 Q Ms. Gotthelf told you that you  
 19 could take some time off if you wanted to;  
 20 isn't that right?  
 21 A No, she did not.  
 22 Q You don't recall her telling you  
 23 that you could take time off?  
 24 A I'm not saying I don't recall her  
 25 saying that. I'm saying she did not tell me

12 (Pages 42 to 45)

<p style="text-align: right;">Page 46</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 that.</p> <p>3 Q So your testimony is Ms. Gotthelf</p> <p>4 did not offer that you could take some time</p> <p>5 off if you wished in light of the cartoon?</p> <p>6 A Ms. Gotthelf did not tell me I</p> <p>7 could take some time off, no.</p> <p>8 Q Did you work that day?</p> <p>9 A Yes, I did.</p> <p>10 Q Do you recall if you worked a full</p> <p>11 day?</p> <p>12 A If I worked that day, it was a full</p> <p>13 day, yes.</p> <p>14 Q You don't recall coming to work</p> <p>15 late that day?</p> <p>16 A No, I don't believe so, no.</p> <p>17 Q You don't think so but it's</p> <p>18 possible that you came to work late that</p> <p>19 day?</p> <p>20 A Sorry. I didn't mean to cut you</p> <p>21 off.</p> <p>22 No, I did not go to work late that</p> <p>23 day.</p> <p>24 Q Did you complain to anyone in Human</p> <p>25 Resources about the cartoon?</p>	<p style="text-align: right;">Page 47</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 A No.</p> <p>3 Q Did you complain to any other</p> <p>4 editor at the New York Post about the</p> <p>5 cartoon?</p> <p>6 A No.</p> <p>7 Q Do you know if Ms. Gotthelf was</p> <p>8 aware of the cartoon prior to publication?</p> <p>9 A I don't know.</p> <p>10 Q You didn't know then or you don't</p> <p>11 know now?</p> <p>12 A I didn't know then and I don't know</p> <p>13 now.</p> <p>14 Q So sitting here today, you think</p> <p>15 Ms. Gotthelf was possibly responsible for</p> <p>16 the selection of the cartoon?</p> <p>17 A Was responsible for the selection</p> <p>18 of the cartoon?</p> <p>19 Q That's the question, yes.</p> <p>20 A I don't know if she was responsible</p> <p>21 for the selection of the cartoon.</p> <p>22 Q You've never spoken with Jesse</p> <p>23 Angelo about the cartoon; is that right?</p> <p>24 A No, I have not.</p> <p>25 Q What's the basis for your belief</p>
<p style="text-align: right;">Page 48</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 that Jesse Angelo approved the cartoon?</p> <p>3 A I spoke to others who said they did</p> <p>4 speak to Jesse about the cartoon and that he</p> <p>5 saw it beforehand and didn't see anything</p> <p>6 wrong with it.</p> <p>7 Q Who did you speak with?</p> <p>8 A I spoke to Leonard Greene.</p> <p>9 Q So Leonard Greene told you that</p> <p>10 Mr. Angelo approved the cartoon in advance?</p> <p>11 A Leonard told me that he'd spoken to</p> <p>12 Jesse about the cartoon. Jesse said he saw</p> <p>13 the cartoon before it was published and that</p> <p>14 he didn't see anything wrong with it.</p> <p>15 Q Did you discuss the cartoon with</p> <p>16 any other employees?</p> <p>17 A Yes.</p> <p>18 Q By the way, when did you have this</p> <p>19 conversation with Leonard Greene?</p> <p>20 A Might have been that day.</p> <p>21 Q So you took what Leonard Greene</p> <p>22 told you as a fact?</p> <p>23 A I understood -- I don't think</p> <p>24 Leonard lied to me about that, so, yes, I</p> <p>25 believe Leonard, what he said.</p>	<p style="text-align: right;">Page 49</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 Q So in your court Complaint, based</p> <p>3 on what Leonard told you, you felt</p> <p>4 comfortable stating "In fact, Jesse Angelo</p> <p>5 admitted to others that he had reviewed and</p> <p>6 approved the publication of the cartoon</p> <p>7 before it appeared in the newspaper"; is</p> <p>8 that right?</p> <p>9 A I'm sorry. Could you read that</p> <p>10 again?</p> <p>11 Q In your court Complaint, based on</p> <p>12 what Leonard Greene told you, you felt</p> <p>13 comfortable stating "In fact, Jesse Angelo</p> <p>14 admitted to others that he had reviewed and</p> <p>15 approved the publication of the cartoon</p> <p>16 before it appeared in the newspaper"?</p> <p>17 A Yes.</p> <p>18 Q Yeah. Who were the "others"?</p> <p>19 A The others in terms of that spoke</p> <p>20 to Jesse about it?</p> <p>21 Q Well, I don't know. In your</p> <p>22 Complaint in Paragraph 69 it says "In fact,</p> <p>23 Jesse Angelo, the white managing editor at</p> <p>24 the Post, admitted to others."</p> <p>25 So I'm asking you who are the</p>

<p style="text-align: right;">Page 50</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 "others" referenced in that paragraph?</p> <p>3 A I don't recall.</p> <p>4 Q Is it possible that it was just</p> <p>5 Leonard Greene?</p> <p>6 A Is it possible? I think anything</p> <p>7 is possible. But if I said "others," then I</p> <p>8 think there were probably others that also</p> <p>9 heard him, so ...</p> <p>10 Q But sitting here today, you can't</p> <p>11 identify anyone other than Leonard Greene</p> <p>12 who heard that Jesse Angelo had reviewed and</p> <p>13 approved the publication of the cartoon</p> <p>14 before it appeared in the newspaper; is that</p> <p>15 correct?</p> <p>16 A Right now, I can't think of anyone</p> <p>17 else.</p> <p>18 Q Is there anything that you haven't</p> <p>19 told me that supports your belief that Dan</p> <p>20 Greenfield discriminated against you based</p> <p>21 on your race at the New York Post?</p> <p>22 A Well, I mentioned that he had</p> <p>23 something to do with me being demoted from</p> <p>24 my beat.</p> <p>25 Q Wait. I'm sorry. When you say</p>	<p style="text-align: right;">Page 51</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 "demoted from your beat."</p> <p>3 Are you referring to the Queens</p> <p>4 Courthouse position?</p> <p>5 A That's correct.</p> <p>6 Q When were you demoted from the</p> <p>7 Queens Courthouse position?</p> <p>8 A In December 2008.</p> <p>9 Q Do you know what Dan Greenfield's</p> <p>10 position was in December 2008?</p> <p>11 A I don't exactly know what the</p> <p>12 titles are for the editors or for Dan</p> <p>13 Greenfield specifically.</p> <p>14 Q Do you know what Dan Greenfield's</p> <p>15 position is today at the New York Post?</p> <p>16 A I don't know exactly what his title</p> <p>17 is.</p> <p>18 Q Do you know that Dan Greenfield</p> <p>19 wasn't the deputy editor back in</p> <p>20 December 2008?</p> <p>21 A I do not know if he was or he was</p> <p>22 not.</p> <p>23 Q But you just said that he played a</p> <p>24 role in your demotion, right?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 52</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 Q So if he wasn't in his current</p> <p>3 position, how do you know that he had any</p> <p>4 authority to demote you back in 2008?</p> <p>5 A I think regardless of his title, I</p> <p>6 think he played a role in my demotion.</p> <p>7 Q Tell me the factual basis for that</p> <p>8 belief.</p> <p>9 A Dan Greenfield was an editor at the</p> <p>10 Post. I believe he was a confidante of</p> <p>11 Michelle Gotthelf. And I believe he played</p> <p>12 a role in my demotion.</p> <p>13 Q Confidante.</p> <p>14 Why do you believe he was</p> <p>15 confidante of Michelle Gotthelf back in</p> <p>16 December 2008?</p> <p>17 A She was the Metro editor and he was</p> <p>18 an editor.</p> <p>19 Q So you do remember the titles of</p> <p>20 some people at the New York Post?</p> <p>21 A I'm not specific on exactly what</p> <p>22 all the titles are for all of the editors.</p> <p>23 Q Okay.</p> <p>24 Tell me, how long did you hold the</p> <p>25 Queens Courthouse position?</p>	<p style="text-align: right;">Page 53</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 A I was there from winter of 2006</p> <p>3 until I was removed, wrongly, in 2008 of</p> <p>4 December.</p> <p>5 Q Okay. Winter of 2006 through</p> <p>6 December 2008; is that right?</p> <p>7 A That is correct.</p> <p>8 Q So when you were the Queens</p> <p>9 Courthouse reporter, where did you report to</p> <p>10 work every day?</p> <p>11 A I'm sorry?</p> <p>12 Q I didn't mean to cut you off.</p> <p>13 A When I was the Queens Courthouse</p> <p>14 reporter, I went to work at the Queens</p> <p>15 Courthouse.</p> <p>16 Q What time did you report to the</p> <p>17 Queens Courthouse, generally?</p> <p>18 A It varied.</p> <p>19 Q Was it sometime between 9 and</p> <p>20 10 a.m.?</p> <p>21 A It varied.</p> <p>22 Q What did it vary on? When did it</p> <p>23 change?</p> <p>24 A It depended on the cases I was</p> <p>25 working on.</p>

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1 IKIMULISA LIVINGSTON  
 2 Q Okay.  
 3 What's the earliest you ever  
 4 reported to work at the Queens Courthouse?  
 5 A I don't recall the exact time, but  
 6 there are times when I certainly got there  
 7 very early.  
 8 Q What time did the doors open at the  
 9 Queens Courthouse, do you know?  
 10 A I don't recall exactly what time  
 11 they opened.  
 12 Q Did you ever get there at 7 a.m.?  
 13 A I believe I have gotten there at  
 14 7 a.m.  
 15 Q Did you ever get there at  
 16 6:30 a.m.?  
 17 A I don't recall.  
 18 Q So the earliest you recall arriving  
 19 there is 7 a.m.; is that right?  
 20 A I'm certain there were occasions  
 21 where I got there at 7 a.m. I don't know  
 22 specifically there if there were other cases  
 23 where I got there at 6:30. That may have  
 24 happened or that may not have happened. I  
 25 don't recall.

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1 IKIMULISA LIVINGSTON  
 2 A Normally not, no.  
 3 Q So in December 2008 is when you  
 4 stopped being a Queens Courthouse reporter,  
 5 right?  
 6 A That's correct.  
 7 Q And you said you started sometime  
 8 in the winter of 2006; is that right?  
 9 A That's correct.  
 10 Q So is it fair to say that you  
 11 didn't report to work at the New York Post  
 12 offices at 1211 Avenue of the Americas until  
 13 sometime before winter 2006; is that right?  
 14 A No. That's not absolutely correct.  
 15 Q So tell me when you reported to  
 16 work at 1211 Avenue of the Americas during  
 17 normal business hours while you were a  
 18 Queens Courthouse reporter.  
 19 A Well, if we're talking about normal  
 20 business hours?  
 21 Q Yeah, that was the question.  
 22 Normal business hours.  
 23 A If we're talking about normal  
 24 business hours. Normal business hours for  
 25 me also included Sundays, so there were

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1 IKIMULISA LIVINGSTON  
 2 Q What was the latest you stayed at  
 3 the Queens Courthouse?  
 4 A I don't recall the latest time I've  
 5 been there.  
 6 Q You don't recall?  
 7 A I don't recall the latest I've been  
 8 there.  
 9 Q On average, what time did you leave  
 10 the Queens Courthouse?  
 11 A It varied.  
 12 Q Did you have a desk at the Queens  
 13 Courthouse?  
 14 A Yes, I did.  
 15 Q When you were a Queens Courthouse  
 16 reporter, did you report to work at  
 17 1211 during normal business hours?  
 18 A I'm sorry. When I was at the  
 19 Queens Courthouse?  
 20 Q Correct.  
 21 A Did I report to --  
 22 Q When you were a Queens Courthouse  
 23 reporter, did you report to work at the New  
 24 York Post offices at 1211 Avenue of the  
 25 Americas during normal business hours?

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1 IKIMULISA LIVINGSTON  
 2 occasions when I, as a general assignment  
 3 reporter on Sundays while I was also working  
 4 as a Queens Court reporter, when I did go to  
 5 the office.  
 6 Q From Monday through Friday, 9 to 5,  
 7 when you were a Queens Courthouse reporter,  
 8 how many times would you say, instead of  
 9 reporting to your desk at the Queens  
 10 Courthouse, you went to 1211 Avenue of the  
 11 Americas?  
 12 A I don't recall.  
 13 Q Well, was it more than once?  
 14 A I think it probably was more than  
 15 once.  
 16 Q Was it more than five times?  
 17 A I don't know.  
 18 Q Why would you not go to work at the  
 19 Queens Courthouse and instead go to the New  
 20 York Post offices when you were on that  
 21 beat?  
 22 A Well, when Michelle called me, I  
 23 believe it was December 2nd or 3rd -- I  
 24 think it was the 3rd, she called me when I  
 25 was at the Queens Courthouse and asked me to

15 (Pages 54 to 57)



Page 58

1 IKIMULISA LIVINGSTON  
 2 come in to the office at 1211 Sixth Avenue  
 3 the following day. And I reported to work  
 4 that day at 10 a.m. I believe it was  
 5 10 a.m. at 1211.  
 6 Q Is this December 2nd or 3rd, 2008?  
 7 A 2008, yes.  
 8 Q So that's when your position was  
 9 being reassigned; is that right?  
 10 A That's when she demoted me.  
 11 Q Well, I'm talking about the time  
 12 that you actually were a Queens Courthouse  
 13 reporter, was there any time when instead of  
 14 going to work at the Queens Courthouse you  
 15 instead went to work at 1211 Avenue of the  
 16 Americas?  
 17 A And you are referring to only  
 18 Monday through Friday?  
 19 Q Only Monday through Friday, during  
 20 normal business hours Monday through Friday.  
 21 A I don't recall.  
 22 Q You don't recall if there was any  
 23 time?  
 24 A I don't recall how many times.  
 25 Q Will you agree that it would be a

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1 IKIMULISA LIVINGSTON  
 2 shift I worked was overtime?  
 3 Q Yes.  
 4 A No.  
 5 Q When you worked on Sundays, were  
 6 you working on stories relating to your  
 7 Queens Courthouse reporter beat?  
 8 A Usually not.  
 9 Q How many Sundays would you say you  
 10 worked between the winter of 2006 and  
 11 December of 2008?  
 12 A For much of that time up until  
 13 2008, my shift was Sunday through Thursday.  
 14 Q So is it your testimony that when  
 15 you were a Queens Court reporter, you didn't  
 16 work on Fridays?  
 17 A That's correct.  
 18 I'm sorry. Up until 2008, I worked  
 19 Sunday through Thursday.  
 20 Monday through Thursday, I worked  
 21 in the Queens Courthouse. Sunday I worked  
 22 general assignment.  
 23 Q Do you know who covered the Queens  
 24 Courthouse on Fridays?  
 25 A It's my understanding that no one

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1 IKIMULISA LIVINGSTON  
 2 rare occurrence that you wouldn't go to the  
 3 Queens Courthouse and you would instead go  
 4 to 1211 Avenue of the Americas during normal  
 5 business hours Monday through Friday?  
 6 A I would say that it was -- it would  
 7 have been out of the ordinary. It would  
 8 have been unusual.  
 9 Q And while you were a Queens  
 10 Courthouse reporter, your testimony is you  
 11 also worked on Sundays; is that right?  
 12 A For part of the time I was a Queens  
 13 Courthouse reporter, yes.  
 14 Q And what were your job  
 15 responsibilities when you worked on Sundays?  
 16 A I was a general assignment  
 17 reporter.  
 18 Q And the work you did on Sundays,  
 19 was that overtime?  
 20 A No.  
 21 Well, sometimes there would be  
 22 overtime.  
 23 Q And the overtime would be the work  
 24 you did on Sundays?  
 25 A Are you asking me if the Sunday

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1 IKIMULISA LIVINGSTON  
 2 covered the Queens Courthouse on Fridays.  
 3 Q When you worked Sunday through  
 4 Thursday during that time period, did you  
 5 interact with Dan Greenfield on the Sundays  
 6 you were in the office?  
 7 A I don't recall.  
 8 Q Well, based on your testimony, the  
 9 only time you would have been in the office  
 10 with Dan Greenfield on a regular basis would  
 11 have predated your assignment to the Queens  
 12 Courthouse reporter beat; is that correct?  
 13 A I don't know when Greenfield  
 14 started working at the Post.  
 15 Q You may not recall the date sitting  
 16 here today, but based on your work schedule  
 17 and what you just described, the only time  
 18 that you would have interacted with Dan  
 19 Greenfield would have been pre your  
 20 assignment to the Queens Courthouse reporter  
 21 position; is that correct?  
 22 A I don't recall working with  
 23 Greenfield before that.  
 24 Q So you don't recall working with  
 25 Dan Greenfield before the Queens Courthouse

16 (Pages 58 to 61)



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1 IKIMULISA LIVINGSTON  
2 reporter assignment, and that may be because  
3 he wasn't at the Post.

4 And tell me then, when have you  
5 been in the office on a regular basis with  
6 Dan Greenfield?

7 When I say "the office," I'm  
8 referring to 1211 Avenue of the Americas.

9 A On a regular basis?

10 Q Yes.

11 A I have not been in the office on a  
12 regular basis with Dan Greenfield.

13 Q So you testified earlier when you  
14 speak with Dan Greenfield it's on the  
15 telephone; is that right?

16 A For the most part, yes.

17 Q So how do you know how Dan  
18 Greenfield speaks with other people when you  
19 are out of the office and having private  
20 conversations with him on the telephone  
21 only?

22 A Well, I know from my colleagues,  
23 from Leonard, he's told me how Greenfield  
24 has spoken to him on occasion.

25 He's yelled at him and screamed at

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1 IKIMULISA LIVINGSTON  
2 him, and I know from Austin Fenner that  
3 Greenfield yelled and screamed and cursed at  
4 him.

5 And in my interactions with some of  
6 my white reporter colleagues, they have  
7 never mentioned about Greenfield speaking to  
8 them in that matter.

9 Q Who else have you spoken with other  
10 than Leonard Greene and Austin Fenner, your  
11 co-plaintiffs in this case?

12 MR. THOMPSON: Objection.

13 A I don't understand the question.

14 Q Who else have you spoken with  
15 regarding the manner in which Dan Greenfield  
16 speaks to reporters other than Mr. Greene  
17 and Mr. Fenner?

18 MR. THOMPSON: And other than  
19 counsel, correct? Please make that  
20 clear.

21 MS. LOVINGER: I'll withdraw  
22 that question and make it clearer.

23 Q Tell me what other New York Post  
24 reporters you've spoken with, either current  
25 or former New York Post reporters, regarding

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1 IKIMULISA LIVINGSTON  
2 the manner in which Dan Greenfield speaks to  
3 them other than Mr. Greene and Mr. Fenner?

4 A I've spoken to other reporters just  
5 out on the field sometimes.

6 Q Tell me who.

7 A I've spoken with Amber Sutherland,  
8 Kevin Fasick.

9 Those are the two that come to mind  
10 right now. And at no time did they tell me  
11 that they were spoken to in that same matter  
12 by Dan Greenfield.

13 Q Have you ever asked Amber  
14 Sutherland if Dan Greenfield has ever raised  
15 his voice at her?

16 A I have not specifically asked  
17 Amber, "Did Dan yell at you or scream at  
18 you" but I've asked in general, how's it  
19 going, how do you like the Post, that sort  
20 of thing.

21 Q Is Amber Sutherland a friend of  
22 yours?

23 A Amber Sutherland is a colleague.

24 Q Do you think Amber Sutherland would  
25 confide in you about her work-related

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1 IKIMULISA LIVINGSTON  
2 problems?

3 A Yes.

4 Q Do you know if Amber Sutherland  
5 knows that you are suing the New York Post?

6 A Yes, I believe that she's aware.

7 Q Well, given that Amber Sutherland  
8 knows that you are suing her employers,  
9 wouldn't you agree that she might be  
10 hesitant to criticize them to you?

11 A I don't know that.

12 Q But it wouldn't be unreasonable,  
13 wouldn't you agree?

14 A I don't know.

15 Q So Amber Sutherland did not tell  
16 you that Dan Greenfield doesn't yell at her;  
17 is that right?

18 A That would be true.

19 Q How about Kevin Fasick?

20 Tell me what Kevin Fasick told you.

21 A Kevin Fasick never said that  
22 Greenfield yelled at him.

23 Q Has Kevin Fasick ever told you that  
24 Dan Greenfield hasn't yelled at him?

25 A No, he hasn't specifically said

17 (Pages 62 to 65)

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Page 67

1 IKIMULISA LIVINGSTON

2 that.

3 Q And Kevin Fasick also knows that  
4 you are currently involved in a litigation  
5 against the New York Post; isn't that right?

6 MR. THOMPSON: Objection.

7 A I don't know that.

8 Q Have you spoken with any other  
9 reporters in addition to Leonard Greene,  
10 Austin Fenner, Amber Sutherland and Kevin  
11 Fasick; anyone other than those four  
12 individuals, regarding Dan Greenfield?

13 A I've talked to Lorena Mongelli, and  
14 I can't recall exactly right now -- I'm  
15 trying to think of exact conversations, but  
16 right now doesn't come to mind.

17 Q And has Lorena Mongelli ever told  
18 you that Dan Greenfield never yells at her?

19 A No, she's never told me that he  
20 never yells at her.

21 Q So do you have any factual basis to  
22 believe that Dan Greenfield does not yell at  
23 white reporters?

24 A None of the white reporters I've  
25 talked to have told me that Dan Greenfield

1 IKIMULISA LIVINGSTON

2 yells at them.

3 Q But none of the white reporters  
4 you've talked to have told you that Dan  
5 Greenfield doesn't yell at them; isn't that  
6 correct?

7 A I don't recall specifically.

8 Q Are you changing your testimony of  
9 a few minutes ago?

10 A No, I'm not changing my testimony.

11 Q Have you specifically asked every  
12 white reporter at the New York Post if Dan  
13 Greenfield yells at them?

14 A No, I have not.

15 Q Is there anything else that Dan  
16 Greenfield has done to support your belief  
17 that he's discriminated against you based on  
18 your race?

19 A Dan Greenfield also was involved  
20 with my evaluations, and all of those  
21 evaluations -- those evaluations for the  
22 most part were wrong and untrue.

23 Q Do you know when the New York Post  
24 started administering performance  
25 evaluations?

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2 A The first evaluation I had was in  
3 2008. I recall that being the first time  
4 there was a formal process.

5 Q And you testified earlier you don't  
6 even know if Dan Greenfield was an employee  
7 of the Post in 2008; isn't that right?

8 A 2008?

9 Q Yeah. Yes.

10 A I think Dan was an employee in  
11 2008.

12 Q Well, did Dan Greenfield review  
13 your job performance in 2008?

14 A I don't know if he reviewed my job  
15 performance. I don't know if he was the one  
16 to review me in 2008.

17 Q So you are not alleging that Dan  
18 Greenfield discriminated against you based  
19 on your evaluation in 2008; is that right?

20 A I don't know that he didn't have  
21 anything to do with it.

22 Q Well, we haven't even established  
23 that he was employed by the Post in 2008.

24 So sitting here today, you're not  
25 alleging that Dan Greenfield discriminated

1 IKIMULISA LIVINGSTON

2 against you based on your job performance  
3 evaluation in 2008; is that right?

4 A I'm certain I talked to Dan  
5 Greenfield in 2008. I believe he was an  
6 employee.

7 Q And you think Dan Greenfield  
8 evaluated your performance in 2008?

9 A I said I don't know that he did  
10 not.

11 Q Is there anything else other than  
12 what you've already told me that supports  
13 your belief that Dan Greenfield  
14 discriminated against you based on your  
15 race?

16 A I think I mentioned, or if I  
17 didn't, the fact that he gives me dead-end  
18 stories that don't go anywhere; the way he  
19 speaks to me that is -- that's offensive.

20 I think he did play a role in my  
21 demotion.

22 Q When you say "demotion," you are  
23 referring to the Queens Courthouse position?

24 A That would be correct.

25 And sometimes I don't get bylines

18 (Pages 66 to 69)

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2 on stories that I contribute to and I think  
3 editors play a role -- editors have played a  
4 role in that, and he's an editor.

5 Right now, that's what comes to  
6 mind right now.

7 Q Okay.

8 During your time at the New York  
9 Post, haven't you heard of numerous  
10 incidents where white reporters didn't get  
11 bylines on stories they've worked on?

12 A In the nearly 15 years that I  
13 worked at the New York Post?

14 Q Yes.

15 A For the majority of time, people  
16 got bylines for what they contribute to a  
17 story.

18 Q So that doesn't answer the  
19 question, though.

20 In your nearly 15 years that you've  
21 worked at the New York Post, have you ever  
22 heard of a white reporter not getting a  
23 byline for a story they worked on?

24 A I think that there are occasions  
25 when rewrite people, people who are in the

1 IKIMULISA LIVINGSTON

2 office who actually write the story when  
3 they don't give themselves a byline.

4 Q So is the answer yes?

5 A Not just whites, but also the one  
6 black reporter and that would be Leonard.  
7 So that happens occasionally.

8 Q So it does happen that white  
9 reporters don't get bylines?

10 A I'm saying sometimes rewrite --  
11 when people are doing rewrite, white  
12 rewrite, as well as Leonard, the only black  
13 rewrite or reporter in the newsroom, there  
14 are occasions when there are so many people  
15 on the byline, that they don't actually take  
16 credit.

17 Q And you personally got bylines the  
18 majority of the time that you worked on  
19 stories during your 15 years; is that  
20 correct?

21 A Throughout my 15 years?

22 Q Yes.

23 A Up until -- I would say that most  
24 of the time I always got a byline for  
25 something I worked on up until recently.

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2 Q And when you say "recently," do you  
3 mean 2011?

4 A I mean when Michelle and Dan began  
5 to discriminate against me.

6 Q What's the time frame of when  
7 Michelle and Dan began to discriminate  
8 against you?

9 A I would say when Michelle became  
10 the Metro editor.

11 Q And that was -- Michelle became the  
12 Metro editor when you were assigned to the  
13 Queens Courthouse; is that correct?

14 A I believe that's correct.

15 Q Michelle was promoted -- Michelle  
16 Gotthelf was promoted to the Metro editor in  
17 December 2007.

18 Does that sound right?

19 A I don't know.

20 Q Yeah, that's when Michelle was  
21 promoted.

22 So your testimony is that Michelle  
23 Gotthelf started discriminating against you  
24 in or around December 2007?

25 A Soon after Michelle became the

1 IKIMULISA LIVINGSTON

2 Metro editor or somewhere around that time,  
3 I know I had a desk at the office, I had a  
4 phone at the office and those things were  
5 taken from me. This is still when I was a  
6 reporter working on Sundays, working the  
7 Sunday-through-Thursday shifts.

8 And yes, it continued from then on.

9 Q So is it your testimony that you  
10 had a desk in the newsroom prior to  
11 December 2007 and when you became a Queens  
12 Courthouse reporter, that desk was taken  
13 away from you?

14 A No, that's not what I'm saying.

15 Q Well, your testimony was "Soon  
16 after Michelle became the Metro editor, I  
17 know I had a desk at the office, I had a  
18 phone at the office and those things were  
19 taken away from me."

20 And we just established that  
21 Michelle became the Metro editor in  
22 December 2007 and that's about the same time  
23 you became the Queens Courthouse reporter;  
24 isn't that right?

25 MR. THOMPSON: Objection.

19 (Pages 70 to 73)

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1 IKIMULISA LIVINGSTON

2 A No.

3 Q I'm sorry. You were actually --  
4 you were the Queens Courthouse reporter when  
5 Michelle was promoted?

6 A That's correct.

7 Q So is it your testimony that when  
8 Michelle Gotthelf was promoted, you lost  
9 your desk at 1211 Avenue of the Americas?

10 A It was around that time. I don't  
11 exactly remember when. I know that Michelle  
12 was on the desk and at some point she called  
13 me, telling me that they were taking away my  
14 desk and that I needed to come in and get my  
15 things. And it was my understanding that a  
16 white woman was being placed in the desk  
17 that I had basically been in since 1997.

18 Q So you received this phone call  
19 while you were at the Queens Courthouse?

20 A That's correct.

21 Q And did Michelle Gotthelf offer you  
22 a reason as to why your desk was being  
23 removed?

24 A I don't recall. I don't recall her  
25 giving me a reason. She just said that my

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1 IKIMULISA LIVINGSTON

2 available desks in the newsroom at that  
3 time?

4 A I don't know.

5 Q But you testified earlier that at  
6 that time you had a desk at the Queens  
7 Courthouse; is that right?

8 A Yes.

9 Q So why would you need two desks?

10 A Sometimes I worked as a general  
11 assignment reporter and -- on Sundays I  
12 worked as a general assignment reporter and  
13 sometimes I would go into the office during  
14 the commission of my job.

15 Q Right. But there were a lot of  
16 other desks that were available on Sunday  
17 because people who worked different shifts  
18 during the week weren't all in the office on  
19 Sunday; isn't that right?

20 A I don't know.

21 Q Well, tell me what you did when you  
22 came into the office on Sunday.

23 Did you sit -- did you have to sit  
24 on the floor?

25 A I don't recall sitting on the floor

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1 IKIMULISA LIVINGSTON

2 things were all being taken out of the  
3 drawers and everything was being cleared off  
4 of the desk and placed on top of file  
5 cabinets where people generally -- those are  
6 freebies that people just come and take and  
7 that I needed to come and get my things.

8 Q And who was the white woman who was  
9 being assigned to your desk?

10 A I don't recall her name.

11 Q She just said "I'm assigning your  
12 desk to a white woman"?

13 A She did not say that, no.

14 Q Well, what did she say to you, to  
15 the best of your recollection?

16 MR. THOMPSON: Objection.

17 A I believe I just told you what she  
18 said to me.

19 Q Well, you said that you believed a  
20 white woman was given your desk.

21 What is the basis for that belief?

22 A I learned later on and I would see  
23 a white woman sitting at my desk, at the  
24 desk that was mine.

25 Q Do you know if there were other

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2 in the office.

3 Q Did you use someone else's desk?

4 A I don't recall right now.

5 Q So sitting here today, you don't  
6 recall where you performed the work you said  
7 you performed on Sundays during this time  
8 period when you were at the Queens  
9 Courthouse; is that your testimony?

10 A Do you mean after my desk was  
11 taken?

12 Q Yes. After your desk was taken  
13 away.

14 A I think a lot of times I ended up  
15 writing -- doing work from my car or doing  
16 work from home.

17 Q Well, during the period of time you  
18 were Queens Courthouse reporter, you said  
19 that when you weren't in the Queens  
20 Courthouse you were working on Sundays as a  
21 general assignment reporter; is that right?

22 A Yes.

23 Q So when you are a general  
24 assignment reporter, isn't your job to be  
25 out in the field on the streets?

20 (Pages 74 to 77)



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1 IKIMULISA LIVINGSTON

2 MR. THOMPSON: You are right.

3 And let's also make clear that you  
4 produced 600 pages a day or two  
5 before \*defendant's deposition in  
6 this case.

7 Thank you. Just continue.

8 Six hundred pages of documents that  
9 we had to review.

10 MS. LOVINGER: Do you want to  
11 have a dispute about this?

12 MR. THOMPSON: No. I want you  
13 to continue with your deposition, Ms.  
14 Lovinger.

15 MS. LOVINGER: You just need to  
16 get in the last word is all it is.

17 MR. THOMPSON: No, I don't.  
18 I'm want you to continue.

19 MS. LOVINGER: And I will  
20 continue.

21 MR. THOMPSON: Thank you.

22 BY MS. LOVINGER:

23 Q Ms. Livingston, you testified that  
24 Ms. Gotthelf started discriminating against  
25 you when she was promoted to Metro editor in

1 IKIMULISA LIVINGSTON

2 December 2007; is that correct?

3 MR. THOMPSON: Objection.

4 A No. No, I'm not saying that that's  
5 absolutely when Ms. Gotthelf started  
6 discriminating against me.

7 Q Are you changing your testimony?

8 A No, I'm not changing my testimony.

9 Q When are you now saying that  
10 Ms. Gotthelf started discriminating against  
11 you?

12 MR. THOMPSON: Objection.

13 A Prior to -- I'm sorry, I take that  
14 back, "prior to."

15 The discrimination has been ongoing  
16 for a while and Michelle has sent -- I did  
17 mention that Michelle also talked about  
18 e-mails, story pitches that I provided that  
19 I would send them, and she just called them  
20 "low rent" when they related to black people  
21 or people of color, Latinos.

22 And then there were other occasions  
23 when I felt like she discriminated against  
24 me.

25 I was specifically focusing on the

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1 IKIMULISA LIVINGSTON

2 fact that I lost my desk around that time in  
3 the newsroom and it was given to a white  
4 woman.

5 Q And you don't know who that white  
6 woman is, correct?

7 A No. I remember meeting her, but I  
8 don't recall her name.

9 Q So when did Michelle Gotthelf start  
10 discriminating against you, in your opinion?

11 A I don't have an exact date of when  
12 the discrimination began.

13 I just know that the evaluations I  
14 received were untrue. I was demoted from my  
15 job at the Queens County Courthouse.

16 She referred to stories about black  
17 people and Latino as "low rent."

18 Q Before the break, you testified --

19 MR. THOMPSON: Wait. Are you  
20 finished, Ms. Livingston, answering  
21 her question?

22 A No, no. There were other things I  
23 want to talk about.

24 In relation to Ms. Gotthelf and as  
25 well as Greenfield, you asked me --

1 IKIMULISA LIVINGSTON

2 Q Well, if you can just answer this  
3 question and then we can move on to whatever  
4 else you want to talk about.

5 But the question right now was when  
6 did Michelle Gotthelf start discriminating  
7 against you.

8 A I don't have an exact date from  
9 when the discrimination by Ms. Gotthelf  
10 began.

11 Q Before the break, you testified  
12 that Michelle Gotthelf started  
13 discriminating against you while you were at  
14 the Queens Courthouse, because that's around  
15 the time she was promoted to Metro editor.

16 Are you changing that testimony?

17 A Well, no, I'm just adding to it.

18 There were other instances, too.

19 For instance, when I was applying  
20 for -- when I requested being given this  
21 beat, this Queens Courthouse beat, I had to  
22 ask repeatedly Michelle and Jesse Angelo to  
23 be permitted to apply for this beat, to be  
24 given this opportunity to do this beat.

25 And I asked Jesse Angelo verbally,

22 (Pages 82 to 85)

<p style="text-align: right;">Page 86</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 I asked Michelle verbally. At some point I</p> <p>3 had heard from others that someone had been</p> <p>4 hired, a white woman had actually been hired</p> <p>5 to do that job. And about that time I</p> <p>6 actually had something -- I wrote</p> <p>7 something -- I had something in writing</p> <p>8 saying I would like to be considered for</p> <p>9 this position.</p> <p>10 I included clips of my work despite</p> <p>11 the fact I had worked there for nine years</p> <p>12 as a general assignment reporter and covered</p> <p>13 numerous court cases. I actually submitted</p> <p>14 with my e-mail request actual stories that I</p> <p>15 had worked on as examples, despite the fact</p> <p>16 that I had worked there for nine years.</p> <p>17 And then when I was finally given</p> <p>18 the beat, I was told that it was a</p> <p>19 probationary, it was just a probationary to</p> <p>20 see how I did at it.</p> <p>21 Q How many times did you have to</p> <p>22 speak with Mr. Angelo and Ms. Gotthelf about</p> <p>23 the Queens Courthouse reporter position that</p> <p>24 you were seeking?</p> <p>25 A I don't remember exactly how many</p>	<p style="text-align: right;">Page 87</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 times I spoke to them.</p> <p>3 I know I spoke to her -- to</p> <p>4 Michelle about it. I know I spoke to Jesse</p> <p>5 about it on more than one occasion.</p> <p>6 And I'm including the e-mail I sent</p> <p>7 as well.</p> <p>8 Q Do you know the period -- the time</p> <p>9 span between the time you first expressed</p> <p>10 interest in the Queens Courthouse position</p> <p>11 and the time when you were actually given</p> <p>12 the position?</p> <p>13 A No, I don't recall.</p> <p>14 Q But is it your testimony that it</p> <p>15 took a long time to convince them to give</p> <p>16 you a shot at the Queens Courthouse</p> <p>17 position?</p> <p>18 MR. THOMPSON: Objection.</p> <p>19 A I just know I had to repeatedly ask</p> <p>20 to be considered for the position.</p> <p>21 Q And why is this, in your mind,</p> <p>22 evidence of discrimination on the par of</p> <p>23 Michelle Gotthelf?</p> <p>24 A Well, I don't think other white</p> <p>25 reporters have to repeatedly ask to be</p>
<p style="text-align: right;">Page 88</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 considered for a position. And I know that</p> <p>3 my colleague Leonard Greene has repeatedly</p> <p>4 asked for an opportunity to apply for an</p> <p>5 editor job, for other jobs in the newsroom,</p> <p>6 and actually I recall just talking to him</p> <p>7 about how he actually applied for an editor</p> <p>8 job and they had all these different people,</p> <p>9 these white people doing tryouts on the desk</p> <p>10 and --</p> <p>11 Q Ms. Livingston --</p> <p>12 MR. THOMPSON: No, no. She's</p> <p>13 answering the question.</p> <p>14 MS. LOVINGER: This is a</p> <p>15 different question.</p> <p>16 MR. THOMPSON: No, no. She's</p> <p>17 answering the question about the</p> <p>18 defendant Michelle Gotthelf.</p> <p>19 MS. LOVINGER: But --</p> <p>20 MR. THOMPSON: Look at the</p> <p>21 question --</p> <p>22 MS. LOVINGER: The question is</p> <p>23 when she was applying for the Queens</p> <p>24 Courthouse position in 2006.</p> <p>25 MR. THOMPSON: Let's look at</p>	<p style="text-align: right;">Page 89</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 the last question you asked her.</p> <p>3 THE WITNESS: May I continue?</p> <p>4 MR. THOMPSON: Wait. Wait.</p> <p>5 Are we clear what your last</p> <p>6 question is, because that's not what you</p> <p>7 said. The transcript we have right now</p> <p>8 in the computer we're all looking at</p> <p>9 shows your last question.</p> <p>10 MS. LOVINGER: We're talking</p> <p>11 about the Queens Courthouse position.</p> <p>12 MR. THOMPSON: Your last</p> <p>13 question -- she was in the middle of</p> <p>14 answering your last question. You</p> <p>15 have to let her --</p> <p>16 MS. LOVINGER: Let's continue</p> <p>17 because we are wasting time</p> <p>18 unnecessarily.</p> <p>19 MR. THOMPSON: Please continue</p> <p>20 to answer her last question.</p> <p>21 A Leonard was just telling me how</p> <p>22 demoralizing it was for him to actually have</p> <p>23 taken assignment from someone who was</p> <p>24 applying for, a tryout -- a white person, a</p> <p>25 white man who was trying out for the job</p>



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2 that he wouldn't even get a tryout for.

3 Q So is it your testimony that it  
4 took you four or five years to determine  
5 that what happened to you when you were  
6 applying for the Queens Courthouse position  
7 could be somehow discriminatory?

8 MR. THOMPSON: Objection.

9 A I'm sorry. Could you ask the  
10 question again, please.

11 Q We were talking about you and your  
12 assignment to the Queens Courthouse  
13 position, and when I asked you why you think  
14 Ms. Gotthelf's actions in connection with  
15 your assignment to the Queens Courthouse  
16 were discriminatory, you started giving me  
17 an answer about Leonard Greene.

18 So I'm asking you if it's your  
19 testimony that you, through Leonard Greene,  
20 recently determined that what happened to  
21 you when you were applying for the Queens  
22 Courthouse position was somehow  
23 discriminatory?

24 A The fact that I had to repeatedly  
25 ask to be considered for this position, the

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1 IKIMULISA LIVINGSTON

2 fact that Leonard has repeatedly asked to be  
3 considered and has applied for different  
4 positions at the Post.

5 And before that a friend of mine,  
6 Angela Allen, who worked at the Post, she  
7 also applied or asked to be considered to go  
8 to the Washington bureau, and she was told  
9 by Jesse Angelo, "No, and if you don't like  
10 it you can go somewhere else."

11 The fact that over the course of  
12 all those years that Neil Graves has worked  
13 for the Post and was essentially fired by  
14 Michelle -- who was fired by Michelle even  
15 though he was sick and she would try to give  
16 him clerk work to do.

17 You know, all those things lead me  
18 to believe that Michelle is racist.

19 Q We're back in 2006 and your  
20 application to the Queens Courthouse  
21 position.

22 You said that you repeatedly had to  
23 ask for the assignment to the Queens  
24 Courthouse position, to be considered for  
25 the Queens Courthouse position.

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2 Do you know how many times you  
3 spoke with Michelle Gotthelf about wanting  
4 the Queens Courthouse position?

5 A I told you I don't remember exactly  
6 how many times I asked her. I know I  
7 verbally asked her. I know I sent an e-mail  
8 and a minimum of my asking her twice.

9 So I think there were more than two  
10 occasions.

11 Q And in your Complaint, you claim  
12 that you were forced to effectively beg for  
13 the Queens Courthouse position; is that  
14 right?

15 A That's correct.

16 Q Ms. Livingston, I'm going to show  
17 you what's been marked as Livingston  
18 Exhibit 1. It's an e-mail from you to Jesse  
19 Angelo and Michelle Gotthelf dated  
20 January 27, 2006, and it's Bates stamped  
21 IL-592 through IL-596.

22 (Livingston Exhibit 1, E-mail  
23 dated Friday, January 27, 2006,  
24 3:19 p.m., Bates Numbers IL-592  
25 through IL-596, was marked for

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2 Identification.)

3 BY MS. LOVINGER:

4 Q Do you see this e-mail?

5 A I see the e-mail.

6 Q And in the first line of the  
7 e-mail, you say "Hello, I understand the  
8 Queens Courthouse beat is open. I would  
9 like to be considered for the position."

10 Do you see that?

11 A Yes, I do.

12 Q So is it fair to say that on  
13 January 27, 2006, you reached out to  
14 Mr. Angelo and Ms. Gotthelf and expressed  
15 interest for the Queens Courthouse position;  
16 is that right?

17 A Are you asking if this is the first  
18 time?

19 Q I'm asking if on January 27, 2006,  
20 you expressed interest in the Queens  
21 Courthouse position?

22 MR. THOMPSON: Objection.

23 A I sent an e-mail and if it's dated  
24 that day, then that's the day I sent the  
25 e-mail.

24 (Pages 90 to 93)

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2 A That person was Steve Marsh.

3 Q So are you now claiming that Steve  
4 Marsh discriminated against you in asking  
5 you to turn your notes over to a white  
6 reporter?

7 MR. THOMPSON: Objection.

8 A I'm not saying that Steve Marsh was  
9 discriminating against me. I'm saying that  
10 Steve Marsh was -- directed me to turn my  
11 notes to the good friend of Michelle  
12 Gotthelf and also Bridget Harrison, who was  
13 romantically involved with Jesse Angelo.

14 Q But I'm confused because we're  
15 talking about acts of perceived  
16 discrimination.

17 So again the question is: Can you  
18 tell me if anyone else at the New York Post  
19 other than Ms. Gotthelf or Mr. Greenfield  
20 has acted in a way that you believe is  
21 discriminatory against you. Anyone at the  
22 New York Post?

23 A Right now, that's the only other  
24 thing I can think of right now.

25 Q Ms. Gotthelf was your direct

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2 supervisor when you were at the Queens  
3 Courthouse from February or March 2006 until  
4 she was promoted to Metro editor; is that  
5 correct?

6 A Yes, I believe that's correct.

7 Q And then Zach Haberman started  
8 acting as your supervisor in or about  
9 December 2007 or January 2008; is that  
10 correct?

11 A That sounds about correct.

12 Q Ms. Livingston, you produced  
13 digital audio recordings of conversations  
14 with current and former employees of the  
15 Post; is that correct?

16 A Yes.

17 Q And this included recordings of  
18 Zach Haberman, Dan Greenfield, Michelle  
19 Gotthelf, Neil Sloane and Amy Scialdone?

20 A Correct.

21 Q Did you ever record any other Post  
22 employee?

23 A Yeah. The people answering the  
24 telephone. They would have been on those  
25 same recordings.

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1 IKIMULISA LIVINGSTON

2 Q Anyone else?

3 A No, I don't recall anyone else, no.

4 Q We received 92 recordings involving  
5 Post employees.

6 Are there any other recordings?

7 A No.

8 Q When did you make these recordings?

9 A When did I make them?

10 Q Yes. When did you make these  
11 recordings?

12 A I don't have an exact date for all  
13 the recordings.

14 Q Can you tell me the time span?

15 A They would have been -- the  
16 recordings would have began shortly after  
17 Zach Haberman became my editor and on a  
18 nearly daily basis constantly cursed at me,  
19 towards me, yelled at me, screamed, berated  
20 me. That's when I started recording my  
21 conversations.

22 Q So you started making recordings of  
23 coworkers while you were a Queens Courthouse  
24 reporter; is that correct?

25 MR. THOMPSON: Objection.

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1 IKIMULISA LIVINGSTON

2 A I didn't record my coworkers.

3 Q Zach Haberman wasn't an employee of  
4 the Post?

5 A He was my supervisor.

6 Q So, all right, I'll rephrase the  
7 question.

8 You started making recordings of  
9 Post employees while you were a Queens  
10 Courthouse reporter; is that correct?

11 A I started making recordings after I  
12 was constantly berated and screamed at by  
13 Zach Haberman who was my supervisor. And I  
14 also recorded Michelle Gotthelf, Neil  
15 Sloane, Dan Greenfield. And sometimes the  
16 people who picked up the phone at the New  
17 York Post. They would also be in those  
18 recordings because they were on the phone.

19 Q Right. We already covered who you  
20 recorded.

21 I asked when. So you started  
22 making recordings of Post employees while  
23 you were a Queens Courthouse reporter; is  
24 that correct? That's a yes/no question.

25 A I thought I answered that. Yes,

27 (Pages 102 to 105)

<p style="text-align: right;">Page 110</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 A When I was asked by someone with</p> <p>3 HR, Lisa, to no longer do that.</p> <p>4 Q Is that Lisa Sweberg you are</p> <p>5 referring to?</p> <p>6 A I believe that's her name.</p> <p>7 Q When you tape-recorded</p> <p>8 conversations, did you use an induction</p> <p>9 coil?</p> <p>10 A Since I don't really know what an</p> <p>11 induction coil is, no.</p> <p>12 Q You said that you used a digital</p> <p>13 recorder.</p> <p>14 Is that something that you hold up</p> <p>15 to your phone?</p> <p>16 A I used a digital recorder that's a</p> <p>17 handheld digital recorder.</p> <p>18 Q So do you hold it up to your</p> <p>19 telephone when you record?</p> <p>20 A When I was recording those</p> <p>21 conversations, I would either -- I don't</p> <p>22 know if I would hold it to my phone, but I</p> <p>23 would have to next to -- near my phone.</p> <p>24 Q Did you only record phone</p> <p>25 conversations?</p>	<p style="text-align: right;">Page 111</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 A Did I only record telephone</p> <p>3 conversations?</p> <p>4 Q Yeah. Did you record any in-person</p> <p>5 meetings with Post employees?</p> <p>6 A Oh, okay. No.</p> <p>7 Q Did you edit any of the tapes that</p> <p>8 you produced?</p> <p>9 A No, I did not. I don't know how to</p> <p>10 edit them.</p> <p>11 Q And let me ask you: Why did you</p> <p>12 tape-record conversations with your</p> <p>13 supervisors? Did somebody tell you to make</p> <p>14 these recordings?</p> <p>15 A No.</p> <p>16 I knew that Zach Haberman was</p> <p>17 discriminating against me.</p> <p>18 I knew that the yelling, the</p> <p>19 screaming, the tone, the cursing, I knew all</p> <p>20 of these things were wrong and I didn't know</p> <p>21 what to do about what was going on with him.</p> <p>22 So at one point I thought -- I just</p> <p>23 thought I needed proof and at one point I</p> <p>24 thought, well, maybe I'll tell Michelle, but</p> <p>25 I just did this so that I could have a</p>
<p style="text-align: right;">Page 112</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 record of what he was doing to me.</p> <p>3 Q Were you contemplating a lawsuit?</p> <p>4 A No.</p> <p>5 Q You just said that you knew that</p> <p>6 Zach Haberman was discriminating against</p> <p>7 you.</p> <p>8 What's the basis for your belief</p> <p>9 that Zach Haberman was discriminating</p> <p>10 against you?</p> <p>11 A Because he was yelling and</p> <p>12 screaming and cursing at me, to me, and I</p> <p>13 don't think he treated -- certainly not</p> <p>14 white male reporters that way that he</p> <p>15 interacted with.</p> <p>16 He treated me that way.</p> <p>17 Q But Zach Haberman did yell at other</p> <p>18 reporters; isn't that right?</p> <p>19 A I don't know if he yelled.</p> <p>20 I know that Denise Buffa had very</p> <p>21 difficult times with him as well.</p> <p>22 Q Is Denise Buffa African-American?</p> <p>23 A No. Denise Buffa is a white woman.</p> <p>24 Q So you know for sure that Zach</p> <p>25 Haberman yelled at white women; is that</p>	<p style="text-align: right;">Page 113</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 right? At least one white woman?</p> <p>3 A I know he yelled at me and he</p> <p>4 yelled at Denise.</p> <p>5 I don't know that he yelled. I</p> <p>6 know that he spoke to her in an abusive way</p> <p>7 as well.</p> <p>8 Q Do you believe that Mr. Haberman</p> <p>9 was more critical of your work than he was</p> <p>10 of other reporters?</p> <p>11 A I don't know if he was more</p> <p>12 critical of my work. I just know that he</p> <p>13 was abusive and treated me in a</p> <p>14 discriminatory way.</p> <p>15 Q And Mr. Haberman's employment with</p> <p>16 the New York Post was terminated, correct?</p> <p>17 A As far as I know, he lost his job.</p> <p>18 MS. LOVINGER: Let's go off the</p> <p>19 record for one minute.</p> <p>20 THE VIDEOGRAPHER: The time is</p> <p>21 12:28 p.m. We're now off the record.</p> <p>22 (A brief recess was</p> <p>23 taken.)</p> <p>24 THE VIDEOGRAPHER: The time is</p> <p>25 12:34 p.m. We're now back on the</p>

<p style="text-align: right;">Page 114</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 record.</p> <p>3 BY MS. LOVINGER:</p> <p>4 Q Ms. Livingston, when were you</p> <p>5 removed from the Queens Courthouse position?</p> <p>6 A December 2008.</p> <p>7 Q Who told you you were being</p> <p>8 removed?</p> <p>9 A Michelle Gotthelf.</p> <p>10 Q Did she call you?</p> <p>11 A Did she call me to tell me I was</p> <p>12 being removed? Is that your question?</p> <p>13 Q Yeah. How did she convey the</p> <p>14 message?</p> <p>15 A She called me, told me to come in</p> <p>16 to the office the next day, and at that</p> <p>17 time, the next day, she told me that they</p> <p>18 were making a change in the Queens</p> <p>19 courtroom, in the Queens Courthouse.</p> <p>20 Q Do you remember how long before you</p> <p>21 stopped working in the Queens Courthouse she</p> <p>22 had this conversation with you?</p> <p>23 A How long -- are you saying that I</p> <p>24 was not in the Queens Courthouse when she</p> <p>25 removed me?</p>	<p style="text-align: right;">Page 115</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 Q No. I'm saying that.</p> <p>3 I'm saying did you continue to work</p> <p>4 in the Queens Courthouse after Michelle</p> <p>5 Gotthelf told you that would no longer be</p> <p>6 your personal assignment?</p> <p>7 A When she told me I was being</p> <p>8 demoted; that they were making a change, she</p> <p>9 never told me when, so I thought I was out</p> <p>10 the next day.</p> <p>11 So the next day I called in to the</p> <p>12 office, which is what you do on your general</p> <p>13 assignment, and I spoke to Greenfield,</p> <p>14 telling them him that I'm available. I'm</p> <p>15 not sure exactly what my words were. And he</p> <p>16 told me, no, that's not going to start until</p> <p>17 next week.</p> <p>18 Q So you stayed in the Queens</p> <p>19 Courthouse for one additional week?</p> <p>20 A I don't think it was a full week.</p> <p>21 It was three, maybe four days.</p> <p>22</p> <p>23 REDACTED</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 116</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 replaced me in my Queens Courthouse beat.</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10 REDACTED</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 117</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11 REDACTED</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

30 (Pages 114 to 117)

Page 118	Page 119
<p>1 IKIMULISA LIVINGSTON</p> <p>2 more qualified for the Queens Courthouse</p> <p>3 position; is that correct?</p> <p>4 MR. THOMPSON: Objection.</p> <p>5 A I don't know if he's more qualified</p> <p>6 or less qualified.</p> <p>7 Q You never had an employment</p> <p>8 agreement at the New York Post, did you? An</p> <p>9 employment contract with the New York Post?</p> <p>10 A I was hired by the Post. I don't</p> <p>11 know of any contract.</p> <p>12 Q Well, did you ever have an</p> <p>13 employment contract for a fixed period of</p> <p>14 time to work for the New York Post?</p> <p>15 A No, I did not.</p> <p>16 Q Did you ever have an employment</p> <p>17 contract in connection with a Queens</p> <p>18 Courthouse reporter position?</p> <p>19 A No, no one ever gave me a contract</p> <p>20 for that position.</p> <p>21 Q Were you ever promised that you</p> <p>22 would be at the Queens Courthouse reporter</p> <p>23 position for any specific period of time?</p> <p>24 A No.</p> <p>25 Q Do you know that REDACTED</p>	<p>1 IKIMULISA LIVINGSTON</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6 REDACTED</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 Q To the best of your knowledge, who</p> <p>14 was responsible for removing you from the</p> <p>15 Queens Courthouse position?</p> <p>16 A Michelle Gotthelf, Jesse Angelo,</p> <p>17 Dan Greenfield, Col Allan.</p> <p>18 Q And what's the basis for your</p> <p>19 understanding of how the decision was made</p> <p>20 to remove you from the courthouse?</p> <p>21 A What's the basis?</p> <p>22 Q Uh-huh.</p> <p>23 Did someone tell you how the</p> <p>24 decision was made to remove you from the</p> <p>25 Queens Courthouse position?</p>
Page 120	Page 121
<p>1 IKIMULISA LIVINGSTON</p> <p>2 A No, no one told me.</p> <p>3 Q But you know that Michelle Gotthelf</p> <p>4 and Jesse Angelo were involved in that</p> <p>5 decision, correct?</p> <p>6 A Yes. I know the two of them were</p> <p>7 involved in that decision, and I know that</p> <p>8 one day</p> <p>9 REDACTED</p> <p>10</p> <p>11 And then the next day, I believe it</p> <p>12 was I was, demoted from my beat.</p> <p>13 Q Who told you who made the decision</p> <p>14 to remove you from the Queens Courthouse</p> <p>15 position?</p> <p>16 A No one specifically told me who</p> <p>17 made the decision.</p> <p>18 Michelle told me that they were</p> <p>19 making a change. So, to me, "they" are the</p> <p>20 editors of the New York Post.</p> <p>21 Q So to be clear, Ms. Gotthelf and</p> <p>22 Mr. Angelo, the people who assigned you to</p> <p>23 the Queens Courthouse position, were also</p> <p>24 responsible for removing you; is that right?</p> <p>25 A And as I stated earlier, I think</p>	<p>1 IKIMULISA LIVINGSTON</p> <p>2 Dan Greenfield also had something to do with</p> <p>3 that. He was part of the decision-making on</p> <p>4 that.</p> <p>5 Q Was your salary decreased --</p> <p>6 A I'm sorry. Could I just state, I</p> <p>7 think Zach Haberman would also have</p> <p>8 something to do with me being removed from</p> <p>9 the Queens County Courthouse, since he was</p> <p>10 my immediate supervisor.</p> <p>11 I just wanted to add that.</p> <p>12 Q Okay.</p> <p>13 Was your salary decreased when you</p> <p>14 were removed from the Queens Courthouse</p> <p>15 position?</p> <p>16 A My set salary? No, it did not</p> <p>17 change. However, my overtime did change. I</p> <p>18 made a lot of overtime covering the Sean</p> <p>19 Bell trial. And high-profile trials require</p> <p>20 more time and attention and, therefore, I</p> <p>21 did make lots of money.</p> <p>22 Q But the Sean Bell trial was over</p> <p>23 before you were removed from the Queens</p> <p>24 Courthouse position; is that right?</p> <p>25 A That's correct.</p>

31 (Pages 118 to 121)



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Page 123

1 IKIMULISA LIVINGSTON  
 2 Q What other high-profile trials did  
 3 you work on as the Queens Courthouse  
 4 reporter?  
 5 A I worked on the trial of Nicholas  
 6 "Fat Nick" Mihucci, the trial of Thomas  
 7 \*Bain, I believe his name was. The  
 8 Borukhova-Mallayev pretrial, Jack Rhodes,  
 9 Darryl Littlejohn.  
 10 Q These are all high-profile trials?  
 11 A They are trials -- yes, some of  
 12 them were higher than others, but yes, they  
 13 were trials that I covered while at the  
 14 Queens Courthouse.  
 15 And there were others as well.  
 16 Q Can you define what you consider to  
 17 be "high profile"?  
 18 A The Sean Bell, the cops who shot  
 19 and killed Sean Bell, that was a very  
 20 high-profile story that almost on a daily  
 21 basis made the front page as the trial was  
 22 going on.  
 23 Q But the question was: Can you  
 24 define what you consider to be high profile.  
 25 A These are stories -- as an example,

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1 IKIMULISA LIVINGSTON  
 2 few that come to mind right now.  
 3 Darryl Littlejohn. Jack Rhodes.  
 4 Thomas Bain.  
 5 There was another trial of a woman  
 6 named \*Akiki.  
 7 Q Anything else?  
 8 A Right now those are the ones that  
 9 come to mind.  
 10 Q After your removal --  
 11 A I'm sorry. That wasn't a trial.  
 12 There was also a story that I  
 13 considered to be a really good story which  
 14 was the case of Kareem Bellamy.  
 15 Q And as a Queens Courthouse  
 16 reporter, that was your job, to report on  
 17 trials that were taking place in the  
 18 courthouse; isn't that right?  
 19 A Yes.  
 20 Q After your removal as the Queens  
 21 Courthouse reporter, you were assigned to be  
 22 a general assignment reporter; is that  
 23 right?  
 24 A That's correct.  
 25 Q And isn't it true that there's a

1 IKIMULISA LIVINGSTON  
 2 the Sean Bell cops trial was a high-profile  
 3 story.  
 4 Q Why?  
 5 A It had a lot of interest of the  
 6 readers of the New York Post.  
 7 Q So is your definition of high  
 8 profile, a story that has a lot of interest  
 9 for New York Post readers?  
 10 A That would be one of the criteria.  
 11 Q What else?  
 12 A Stories that have high interest.  
 13 Q Who determines what stories would  
 14 have high interest for New York Post  
 15 readers?  
 16 A Are you asking me who decides what  
 17 goes on the first page of the paper?  
 18 Q Yeah. Who decides what goes not  
 19 just on the front page but in the paper?  
 20 A The editors do.  
 21 Q Are there any other high-profile  
 22 trials you worked on that you haven't  
 23 mentioned while you were a Queens Courthouse  
 24 reporter?  
 25 A There probably are. Those are a

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1 IKIMULISA LIVINGSTON  
 2 lot of opportunity for overtime as a general  
 3 assignment reporter?  
 4 A Not if you are given dead-end  
 5 stories that don't go anywhere.  
 6 Q Well, as a general assignment  
 7 reporter, don't you have an opportunity --  
 8 actually not just an opportunity, isn't it  
 9 part of your job to pitch stories to the  
 10 paper?  
 11 A It was also part of my job to pitch  
 12 stories while I was at the Queens  
 13 Courthouse.  
 14 Q But that's not the question.  
 15 A Yes. So that was part of my job,  
 16 to pitch stories.  
 17 Q So what's the limit on overtime if  
 18 you can be pitching stories, coming up with  
 19 stories on your own?  
 20 A I don't know how to answer that  
 21 question.  
 22 Q Well, isn't there an opportunity  
 23 for overtime if, as part of your job  
 24 responsibilities as a general assignment  
 25 reporter, you can pitch stories and write

32 (Pages 122 to 125)



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1 IKIMULISA LIVINGSTON  
2 reporter?

3 A At no time did anyone make me aware  
4 that I can request an additional shift to  
5 work an extra day to make more money.

6 Q Well, maybe no one affirmatively  
7 told you, but is it your testimony that you  
8 were unaware that you could request  
9 additional shifts?

10 It's a yes or no question,  
11 Ms. Livingston.

12 A I didn't know that other general  
13 assignment reporters were doing that. I  
14 think I was aware that sometimes rewrite  
15 people would work a shift in the office an  
16 extra day or something like that, but at no  
17 time was I aware that that was an option for  
18 a general assignment reporter.

19 Q So is it your testimony that you  
20 are learning about the opportunity for  
21 additional shifts for the first time right  
22 now at this deposition?

23 MR. THOMPSON: Objection.

24 Q Is that your testimony?

25 A I'm saying that at no time did

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1 IKIMULISA LIVINGSTON  
2 anyone tell me I could work an additional  
3 day or a shift as a general assignment  
4 reporter to make extra money, no.

5 Q In your last performance  
6 evaluation, your 2011 APA, did your  
7 supervisors not tell you that you can work  
8 additional shifts and additional hours?

9 A Is that something that's in the  
10 APA?

11 Q I'm asking your recollection.  
12 Did they not tell you that?

13 A Offhand, I do not recall them  
14 telling me that, no.

15 Q Did you ever ask anyone if you  
16 could work additional shifts?

17 A No, I didn't ask anyone if I could  
18 work additional shifts.

19 Q Austin Fenner worked a lot of  
20 overtime.

21 Are you claiming that you were  
22 unaware of that?

23 MR. THOMPSON: Objection.

24 A I don't know what hours Austin  
25 worked.

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1 IKIMULISA LIVINGSTON  
2 Q Are you unaware of the fact that  
3 Austin Fenner worked a lot of overtime at  
4 the New York Post?

5 A I know that Austin was essentially  
6 sent on the road, traveled a lot for the job  
7 which would incur more overtime.

8 So if that answers that question,  
9 then, yes.

10 Q Ms. Livingston, this morning you  
11 described a long list of things that  
12 Michelle Gotthelf and Dan Greenfield did  
13 that you believe were acts of  
14 discrimination, and nowhere in -- not once  
15 in your testimony or in your sworn EEOC  
16 charge or in your federal lawsuit do you  
17 allege that you ever heard Michelle  
18 Gotthelf, Dan Greenfield or any other editor  
19 at the Post say something offensive about  
20 your race, for example, a racial epithet;  
21 isn't that true?

22 MR. THOMPSON: Objection.

23 A There was not an occasion when  
24 Michelle used a racial slur with me,  
25 although I have to say the fact that they

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1 IKIMULISA LIVINGSTON  
2 would always consider black stories and  
3 Latino stories or stories about black and  
4 Latinos as "low rent" or "ghetto" or however  
5 you want -- that right there is offensive in  
6 and of itself.

7 But no, she never used the N-word  
8 with me or -- and Greenfield never said  
9 those things. However, I do know  
10 that Frankie Edozien was called a nigger by  
11 Steve Dunleavy, and Dunleavy would write his  
12 columns and refer to Hispanic people as  
13 "Spics."

14 And there was also an occasion  
15 when -- there was a smoking room in the Post  
16 and there was one occasion when Andrea  
17 Esposito, she was in there with some people  
18 and she was talking about the Giants -- or  
19 just talking about football and she referred  
20 to Lawrence Taylor as "that big nigga."

21 Q Who is Andrea Esposito?

22 A She works at the Post.

23 Q Is she an editor?

24 A No, she is not an editor.

25 Q Going back to my question for a

34 (Pages 130 to 133)

<p style="text-align: right;">Page 134</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 minute.</p> <p>3 Have you ever heard any editor or</p> <p>4 executive at the New York Post say any</p> <p>5 racist comments?</p> <p>6 MR. THOMPSON: Objection.</p> <p>7 A I stated that I didn't hear</p> <p>8 Michelle to me personally using racial</p> <p>9 epithets or Greenfield, except for the fact</p> <p>10 that they constantly call stories about</p> <p>11 black people or Latino people "low rent"</p> <p>12 which is tantamount to saying they're</p> <p>13 ghetto. And that itself is offensive.</p> <p>14 Q So you haven't heard Michelle</p> <p>15 Gotthelf or Dan Greenfield make any comments</p> <p>16 or say something offensive about race --</p> <p>17 MR. THOMPSON: Objection.</p> <p>18 Q Have you heard any other editor or</p> <p>19 executive at the New York Post ever say</p> <p>20 something offensive about your race?</p> <p>21 MR. THOMPSON: Objection.</p> <p>22 A The fact that Col Allan and Jesse</p> <p>23 Angelo would approve a racist cartoon</p> <p>24 depicting President Obama, a black man, as a</p> <p>25 chimpanzee, that is offensive.</p>	<p style="text-align: right;">Page 135</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 Q Anything else?</p> <p>3 A I think the fact they're calling</p> <p>4 black people monkeys is --</p> <p>5 Q Have you ever --</p> <p>6 MR. THOMPSON: Wait, wait. She</p> <p>7 is not finished, Ms. Lovinger.</p> <p>8 Please let her finish.</p> <p>9 A I think that's extremely offensive.</p> <p>10 In addition to the fact that they didn't</p> <p>11 apologize. They wouldn't apologize to me.</p> <p>12 They didn't apologize to Leonard. They</p> <p>13 didn't apologize to the other few black</p> <p>14 reporters and black people that worked</p> <p>15 there.</p> <p>16 And on top of that, for Nicole Alan</p> <p>17 and for the executives to say things like</p> <p>18 oh, those people outside protesting, they're</p> <p>19 uneducated anyway. That is all extremely</p> <p>20 offensive.</p> <p>21 Q There is still a pending question</p> <p>22 that remains unanswered and I asked you the</p> <p>23 question and you --</p> <p>24 MR. THOMPSON: Objection.</p> <p>25 Q -- and you mentioned this low rent</p>
<p style="text-align: right;">Page 136</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 reference which we can address and we will</p> <p>3 pursue it.</p> <p>4 But other than the fact that</p> <p>5 Ms. Gotthelf or Mr. Greenfield you claim</p> <p>6 referred to certain stories as low rent,</p> <p>7 have you ever heard Michelle Gotthelf, Dan</p> <p>8 Greenfield or any other editor or executive</p> <p>9 at the New York Post say anything that's</p> <p>10 offensive about your race?</p> <p>11 A I thought I clearly said I did not</p> <p>12 hear Michelle or Dan Greenfield say anything</p> <p>13 beyond the low rent remarks about story</p> <p>14 pitches about blacks and Latinos.</p> <p>15 As for others, I just mentioned</p> <p>16 Steve Dunleavy. He's a columnist. Other</p> <p>17 than that, I can't say.</p> <p>18 Q You can't say you've ever heard</p> <p>19 anyone else make a comment about your race?</p> <p>20 MR. THOMPSON: Objection.</p> <p>21 A About me as a black woman?</p> <p>22 Q Yes.</p> <p>23 A I thought I answered that. I said</p> <p>24 I can't say.</p> <p>25 Q I'm just rereading your testimony.</p>	<p style="text-align: right;">Page 137</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 And I understand that you just</p> <p>3 testified that you never heard Michelle</p> <p>4 Gotthelf or Dan Greenfield make any</p> <p>5 offensive comment about your race, but my</p> <p>6 question is --</p> <p>7 MR. THOMPSON: Objection.</p> <p>8 Objection.</p> <p>9 Q -- was about other editors and</p> <p>10 executives at the Post.</p> <p>11 MR. THOMPSON: Mistakes the</p> <p>12 testimony.</p> <p>13 MS. LOVINGER: The testimony is</p> <p>14 pretty clear. You can look back in</p> <p>15 the record.</p> <p>16 Q Ms. Livingston, have you ever heard</p> <p>17 any editor or executive at the New York Post</p> <p>18 make any offensive comment about your race?</p> <p>19 MR. THOMPSON: Objection.</p> <p>20 A I thought I was clear. I did not</p> <p>21 hear Michelle say the N-word.</p> <p>22 Q No, you're not hearing the</p> <p>23 question.</p> <p>24 We're going beyond Michelle</p> <p>25 Gotthelf and Dan Greenfield.</p>

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1 IKIMULISA LIVINGSTON  
 2 Have you heard -- and you were  
 3 clear on that answer. You are right.  
 4 But have you heard any other editor  
 5 or executive at the New York Post make any  
 6 offensive comment about your race?  
 7 MR. THOMPSON: Objection.  
 8 A When you say "executive," who do  
 9 you mean?  
 10 Q Any executive.  
 11 Have you -- well, you tell me.  
 12 I mean, do you not know what an  
 13 executive is?  
 14 A Do you mean editors?  
 15 Q It could be someone other than an  
 16 editor. Anyone -- have you heard -- have  
 17 you heard any editor or executive at the New  
 18 York Post or News Corp. make any offensive  
 19 comment about your race?  
 20 MR. THOMPSON: Objection.  
 21 Asked and answered.  
 22 MS. LOVINGER: It hasn't been  
 23 answered.  
 24 MR. THOMPSON: Asked and  
 25 answered. Repeatedly.

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1 IKIMULISA LIVINGSTON  
 2 and testified further as follows:  
 3 CONTINUED EXAMINATION BY MS. LOVINGER:  
 4 THE VIDEOGRAPHER: This is the  
 5 start of Tape Number 3. The time is  
 6 now 2:10 p.m. We're now back on the  
 7 record.  
 8 BY MS. LOVINGER:  
 9 Q Ms. Livingston, this morning you  
 10 testified that you complained once to Human  
 11 Resources and that was back in December of  
 12 2009; is that correct?  
 13 A Yes.  
 14 Q And specifically on December 3,  
 15 2009, you sent an e-mail to Amy Scialdone of  
 16 Human Resources which stated the following:  
 17 "As a reporter at the New York Post, I've  
 18 been discriminated against due to my race  
 19 and my gender. For example, I was removed  
 20 from my beat as the Queens Court's reporter  
 21 because I'm a black woman. I was told I  
 22 would have a desk at the office and there  
 23 would be opportunities to write. That has  
 24 not happened."  
 25 Was that the e-mail you sent to Amy

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1 IKIMULISA LIVINGSTON  
 2 MS. LOVINGER: Repeatedly asked  
 3 but not answered yet.  
 4 MR. THOMPSON: Asked and  
 5 answered. Objection.  
 6 A I said I can't say.  
 7 Q Well, that's really a yes or no  
 8 question.  
 9 When you say you can't say --  
 10 A I can't say that I've heard any  
 11 other editors or executives for the New York  
 12 Post or News Corp. use a racial epithet in  
 13 my presence.  
 14 MS. LOVINGER: Okay. It's 1:00  
 15 so we'll go off the record for lunch.  
 16 MR. THOMPSON: Okay.  
 17 THE VIDEOGRAPHER: That is the  
 18 end of Tape Number 2. The time is  
 19 1:02 p.m. We're off the record.  
 20 (A luncheon recess was  
 21 taken at 1:02 p.m. to 2:10 p.m.)  
 22 A F T E R N O O N S E S S I O N  
 23 IKIMULISA LIVINGSTON,  
 24 resumed, having been previously  
 25 duly sworn, was examined

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1 IKIMULISA LIVINGSTON  
 2 Scialdone?  
 3 A Yes, I believe that's correct.  
 4 Q After you sent that e-mail, Amy  
 5 Scialdone responded the following day  
 6 suggesting that you set up a meeting to  
 7 discuss your concerns.  
 8 Do you remember that?  
 9 A Yes, I remember that.  
 10 Q And do you recall meeting with HR  
 11 to discuss your e-mail complaint?  
 12 A Yes, I do.  
 13 Q On December 9, 2009, you met with  
 14 Jennifer Jayne, Kristin Kelly, who were also  
 15 in Human Resources at the New York Post  
 16 during this time.  
 17 Do you remember that meeting?  
 18 A I thought -- I believe Jennifer  
 19 Jane told me her title was with News Corp.  
 20 Q That her title was with News Corp.?  
 21 A With News Corp. She was like HR  
 22 for News Corp.  
 23 Q Do you know who Kristin Kelly was?  
 24 A She was the young woman who typed  
 25 up the notes.

36 (Pages 138 to 141)

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1 IKIMULISA LIVINGSTON  
 2 included these two stories in this  
 3 self-appraisal?  
 4 A I covered Jack Rhodes' trial, and  
 5 these don't reflect the trial.  
 6 Q Okay.  
 7 Were your other stories related to  
 8 Jack Rhodes published in the paper?  
 9 A Yes, I believe they were.  
 10 Q Do you know when they were  
 11 published in the paper?  
 12 A I don't recall the exact dates.  
 13 His trial would have happened after this  
 14 April 21, 2008 story, so it would have been  
 15 sometime after that.  
 16 Q Directing your attention a few  
 17 paragraphs down, the next paragraph, "We  
 18 covered the Victoria's Secret bras on eBay."  
 19 A couple down you reference a story  
 20 you wrote about a "would-be bride who sued  
 21 her ex-fiance for \$1 million."  
 22 Is this the jilted bride story that  
 23 you referenced in your court Complaint?  
 24 A This would be the story I  
 25 referenced in regards to I worked on it for

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1 IKIMULISA LIVINGSTON  
 2 not. It did have a similar lead.  
 3 Q But you didn't read it?  
 4 A I did read it.  
 5 Q So was it your words with her  
 6 byline?  
 7 A As I stated, it was a story with a  
 8 similar lead. It did not look exactly like  
 9 the story I submitted. It didn't have the  
 10 quotes that I had in my story.  
 11 Q So it's the same subject matter but  
 12 it wasn't your story; is that right?  
 13 A When I say "my story," I consider  
 14 it my story because it was a story I pitched  
 15 and I was approved to write about and that I  
 16 submitted three times, three weeks in a row  
 17 for Monday's paper.  
 18 Q And Ms. Binello's story was  
 19 published in the Sunday paper; isn't that  
 20 right?  
 21 A That's correct.  
 22 Q And the Sunday paper has a  
 23 different editor than the City desk; isn't  
 24 that right?  
 25 A I believe that's true.

1 IKIMULISA LIVINGSTON  
 2 three weeks, resubmitting it with quotes and  
 3 making it stronger. And it was never on a  
 4 byline but it did go on the byline of a  
 5 white reporter.  
 6 Q Who was the reporter who wrote the  
 7 story you are referencing?  
 8 A I wrote the story that I'm  
 9 referencing.  
 10 Q Well, you just said that your story  
 11 was printed on the byline of the white  
 12 reporter. Who is the white reporter you are  
 13 referring to? The white reporter is  
 14 Kathianne Boniello.  
 15 Q And is it your testimony that  
 16 Kathianne Boniello received a byline on the  
 17 story you submitted?  
 18 A I'm saying that I wrote this story.  
 19 I made it stronger three weeks in a row with  
 20 more and more quotes. Never ran under my  
 21 byline, yet it did run in the Sunday paper  
 22 under her byline, at least the story on the  
 23 same subject matter.  
 24 Q Oh, but not your story.  
 25 A I don't know if it's my story or

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1 IKIMULISA LIVINGSTON  
 2 Q And none of the editors who  
 3 rejected your story were responsible for  
 4 deciding the content of the Sunday story;  
 5 isn't that right?  
 6 A I don't know that.  
 7 Q Do you know that the City desk  
 8 doesn't discuss every article that appears  
 9 in the Sunday paper before they run?  
 10 A I don't know that to be true.  
 11 Q Do you know it to be not true?  
 12 MR. THOMPSON: Objection.  
 13 A I don't. I don't know whether  
 14 that's true or not.  
 15 Q Who rejected your story?  
 16 A Neil Sloane, Michelle Gotthelf, Dan  
 17 Greenfield, Zach Haberman, Jesse Angelo,  
 18 Nicole Allen. All the editors.  
 19 Q All of those people read your story  
 20 and rejected it?  
 21 A I don't know if they read it but my  
 22 story didn't make the paper, so the editors  
 23 rejected my story three times in a row.  
 24 Q What's the basis for you  
 25 identifying Neil Sloane, Michelle Gotthelf,

44 (Pages 170 to 173)



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1 IKIMULISA LIVINGSTON

2 A Yes.

3 Q What is the basis for your belief  
4 that the fact that a similar story ran in  
5 the Sunday paper is race discrimination  
6 against you?

7 A I wrote the same story and made it  
8 stronger each week with quotes from the  
9 bride, the groom's family and a lawyer, and  
10 each week it was not good enough under my  
11 byline.

12 However, when a white woman wrote  
13 the same story -- apparently she wrote it on  
14 her own. I don't know that for a fact.

15 But it was good enough for the  
16 paper. And no one at any time told me why  
17 my story wasn't good enough to make the  
18 paper even though it was the same story.

19 Q So therefore, you assume that your  
20 story didn't make the paper because you are  
21 African-American?

22 A I know this didn't happen to white  
23 reporters.

24 Q How do you know that?

25 A No one ever told me, no one ever

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1 IKIMULISA LIVINGSTON

2 complained. I never heard of any rumors or  
3 complaints from other white reporters about  
4 their story not running and then it running  
5 under a black woman's byline.

6 Q Would you be surprised to hear that  
7 people have pitched similar stories during  
8 the week and the Sunday paper --

9 A I'm sorry. What's your question?

10 Q Would you be surprised to hear that  
11 reporters working for the Sunday paper have  
12 made similar pitches to reporters working on  
13 the City desk?

14 A No. That wouldn't be too  
15 surprising. However, that still doesn't  
16 explain away the story I wrote three weeks  
17 in a row continued to be rejected but they  
18 ran a story when it was written by a white  
19 woman.

20 Q You already acknowledged there are  
21 different decision-makers, correct?

22 MR. THOMPSON: Objection.

23 A I said the editors make the  
24 decision on what makes the paper, what runs  
25 in the paper.

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1 IKIMULISA LIVINGSTON

2 Q And the Sunday editor doesn't  
3 determine what runs Monday through Friday,  
4 correct?

5 A I don't know that to be a fact. I  
6 don't know who the Sunday editor was or is.

7 Q So you really don't know who makes  
8 the decision to run the stories in the  
9 Sunday paper, right?

10 A In the Sunday paper?

11 Q Yeah.

12 A If there's a Sunday editor, I would  
13 think that the Sunday editor would determine  
14 what runs in the Sunday paper.

15 Q So the Sunday editor determines  
16 what runs in the Sunday paper and the City  
17 desk editors determine what runs the other  
18 days of the week; isn't that right?

19 A It's my understanding that all  
20 these -- that at some point everyone meets  
21 together and they go over things.

22 Q You really don't know; is that  
23 right?

24 A What I do know is that my story was  
25 rejected three weeks in a row. The same

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1 IKIMULISA LIVINGSTON

2 story, the same subject matter but stronger  
3 because it had quotes. But when a white  
4 woman wrote the story, it ran in the paper.

5 Q Ms. Livingston, you just testified  
6 that what you do know is that your story was  
7 rejected three weeks in a row. But  
8 directing your attention to Livingston  
9 Exhibit 9 which you actually wrote at the  
10 time, you said that the story was submitted  
11 "two weeks in a row."

12 Do you see that?

13 A I did write "two weeks in a row."

14 And in this e-mail I wrote "two  
15 weeks in a row." I may be confusing the  
16 weeks with the fact it ran on a Sunday  
17 and -- because I had submitted it and if it  
18 was going to run, it was going to run on  
19 Monday's paper, so that would have been  
20 three weeks.

21 Q Ms. Livingston, in your  
22 self-appraisal, you gave yourself a rating  
23 of a 4; is that right?

24 A Yes, that's correct.

25 Q And 4 is defined as "exceeds

46 (Pages 178 to 181)